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THE
HOUSING ACTS,
1890-1909,
AND
TOWN PLANNING

THE
HOUSING ACTS,
1890 - 1909,
AND
TOWN PLANNING
AS APPLIED TO
GREAT BRITAIN.

*Containing the provisions of the Housing, Town Planning,
&c., Act, 1909, and embodying*

**The Town Planning Procedure Regulations (England
and Wales), 1910.**

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PREFACE.

THE object of this book is to express in a handy form the provisions of the Housing, Town Planning, &c., Act, 1909, as far as it relates to Great Britain.

The Act is divided into four parts, of which Part I. relates to Housing, while Part II. deals entirely with Town Planning. The remaining parts contain only a few sections, and deal chiefly with County Medical Officers and Housing Committees.

The Housing Part of the recent Act read by itself, and without any knowledge of the previous Housing Acts, is very difficult to follow, as many of the sections merely amend or add to existing law. To remove this difficulty the Housing Acts, 1890 to 1909, have been treated as a whole so that a comprehensive view may be obtained, and the importance of the modifications appreciated.

Several chapters have been included dealing entirely with Town Planning, and it is hoped that these will prove of some value. The provisions comprised in Part II. of the Housing, Town Planning, &c., Act are so novel that some explanatory matter is essential. The maps and diagrams at the end of the book will help to elucidate the chief points as far as the Act is likely to affect the development of building estates, and, unfortunately, the limited space allowed prevents the examples being treated in a more complete manner. Every scheme under the Act will be dealt with on its merits, and as the conditions will vary to such a large extent it is impossible to do more than explain the broad principles under the Act. It is difficult to state how the provisions of Part II. are likely to operate until one or more town-planning schemes have received the approval of the Local Government Board and have been worked out in practice.

A great deal will depend upon the attitude which the Board will take as to the many matters upon which it will have to adjudicate, and when the enormous interests at stake are taken into consideration, and the time necessary to prepare a scheme together with the tedious formalities to be gone through are borne in mind, it may be that a comparatively

small number of persons or bodies will interest themselves in town-planning schemes. On the other hand, there are many signs that local authorities and estate owners are gradually awakening to the fact that the orderly development of a district brings in its train many advantages, pecuniary and otherwise, which it would be imprudent to neglect.

It is hoped that the various summaries will prove useful in enabling the reader to obtain at a glance the main provisions of the Acts. In order to facilitate reference, the sections of the Act (reprinted as an Appendix) have been indexed so that reference can be made at once to the number of the page in the text of the book where any particular section is dealt with.

The Procedure Regulations are somewhat confusing, as published, and an effort has been made to re-cast them into a simpler form. It is hoped that their division into five stages and two sub-stages will help to simplify matters.

In addition, a copious general Index has been compiled which should prove useful to the reader.

F. HOWKINS.

WOODSTOCK AVENUE,
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Part I.

THE HOUSING ACTS,

1890-1909,

AS APPLIED TO GREAT BRITAIN.

CHAPTER 1.

INTRODUCTION.

PRIOR to 1890 various Acts were in force investing Local Authorities with powers whereby they were enabled to deal with some of the evils and dangers of insanitary dwellings.

Year by year public interest grew in what is now known as the "Housing question," and various Parliaments passed amending Acts which still further increased the powers of Local Authorities.

In 1890 a consolidating Act was passed which almost entirely repealed the former Housing Acts. Subsequently other Acts of varying degrees of importance were passed, but in many cases the procedure and formalities to be gone through were so cumbersome that the effects of the Acts were, to a large extent, minimised.

Owing to the gradual growth of public interest many matters were inquired into which before had scarcely been touched upon. As a result of which the Housing and Town Planning, etc., Act of 1909 was finally placed upon the Statute Book.

The following are the Housing of the Working Classes Acts now in force throughout the United Kingdom :—

- (1) 1885. Whole Act repealed except Sections 3, 7, 8, 9, and part of 10.¹
- (2) 1890. *Consolidating Act* applying to United Kingdom—in subsequent Acts referred to as *the principal Act*.
- (3) 1894. Explaining provisions of Part II. of the preceding Act.
- (4) 1896. Relating to Scotland.
- (5) 1900. Containing general amendments.
- (6) 1903. Containing new provisions and general amendments.
- (7) 1909. Housing, Town Planning, etc., Act, containing important provisions, amendments, etc., and, for the first time, dealing with the planning of towns.

The expression "Housing Acts" means the principal Act and any Act amending the same.²

Unfortunately the recent Act, read by itself, is almost meaningless, as constant reference is made to one or other of the previous Acts. The 1890 Act must therefore be looked upon as the base upon which a superstructure of other Acts is erected, and no one Act can be looked upon as complete in itself. The constant occurrence of sections which repeal, amend or add to other sections is almost bewildering, and the object of this book is to present in a compact form the nett result of the various Acts. In order to present the subject as clearly as possible some scheme of classification is necessary, and that adopted in the principal Act has been followed as far as possible.

The summary shown on the next page will give a synoptical view of the scope of the Housing Acts.

¹ The most important of these is Section 7, which states that it is the duty of every Local Authority to put in force, as occasion may require, the powers with which they are invested, so as to secure the proper sanitary condition of all premises within their district.

² 1909, S. 51.

Summary of main Provisions of the Housing Acts, 1890 to 1909, so far as they apply to the United Kingdom.

Part of Act.	Matters dealt with.	Deals with	Mode of acquisition of Land.	Extent to which Acts apply.	Where referred to in this book
I.	<i>Unhealthy Areas.</i>	(1) Any area within which— (a) any houses, courts, or alleys are unfit for human habitation; (b) the narrowness, closeness, and bad arrangement or bad condition of the streets and houses or groups of houses within such area, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes are dangerous or injurious to health of the inhabitants either of the buildings in the said area or of the neighbouring buildings;	(a) By agreement. (b) By compulsory powers under Lands Clauses Acts as amended by Schedule II, 1890. ² (c) By donation. ¹⁰	Whole kingdom except rural districts. ⁸	Chap. 2.
		(2) the powers which Local Authorities have to prepare Improvement Schemes. ¹			
		(1) Closing and demolition orders relating to any dwelling house which is in a state so dangerous or injurious to health as to be unfit for human habitation. ⁴ (2) Any obstructive building, <i>i.e.</i> , those so situated by reason of their proximity to or contact with other buildings as to cause one of the following effects:— (a) Stops or impedes ventilation or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health. (b) Prevents proper measures being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings. (3) The powers which Local Authorities have to prepare Reconstruction Schemes. ⁵	(a) By agreement. (b) By compulsory powers under the Lands Clauses Acts, subject to the provisions of this part. ⁶ (c) By donation. ¹⁰	Whole kingdom.	Chap. 3.
III.	<i>Working Class Lodging Houses. (Workmen's Dwellings).</i>	Separate houses or cottages for the working classes, whether containing one or several tenements, and the purposes of this part include the provision and management of such houses and cottages. ⁷	(a) By agreement under Sec. 57. (b) By compulsory powers under order submitted to Local Government Board and confirmed in accordance with Schedule I., 1909. ⁸ (c) By donation. ¹⁰	Whole kingdom. ⁹	Chap. 4.

¹ 1890, s. 4.

² 1890, s. 20.

³ 1890, s. 3.

⁴ 1909, s. 17.

⁵ 1890, s. 39.

⁶ 1890, s. 38 (4).

⁷ 1890, s. 53.

⁸ 1890, s. 57, and 1909, s. 2.

⁹ 1909, s. 1.

¹⁰ 1909, s. 8.

DISTRICTS, LOCAL AUTHORITIES AND LOCAL RATES.

In reading the Housing Acts the words "district," "local authority" and "local rate" constantly occur, and it is necessary to properly understand the meaning of each as applied in the Acts.

Schedule I. of the 1890 Act sets out the various districts, local authorities and local rates which were to apply to that Act. Since then the list has been altered and added to by amending Acts, so that at present the Schedule for England and Wales stands as follows :—

(1) THROUGHOUT THE ACTS.

District.	Local Authorities.	Local Rate.
City of London .	Common Council ¹	Sewer and Consolidated Rate leviable by the Common Council, or either of such rates.
Boroughs (other than Metropolitan Boroughs)	Borough Councils	General District Rate. ²
Urban Districts .	Urban District Councils	General District Rate. ²

(2) FOR THE PURPOSE OF PART I., IN ADDITION TO THE ABOVE.

County of London (excluding City of London ³)	London County Council	County fund, and the amount payable shall be deemed to be required for special County purposes.
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¹ Now substituted for Commissioners of Sewers by City of London Sewers Act, 1897.

² See Public Health Act, 1875, ss. 207 to 210.

³ The expression "County of London," except where specified to be the Administrative County of London, means the County of London exclusive of the City of London. 1890, s. 93.

(3) FOR THE PURPOSE OF PART II., IN ADDITION TO THOSE WHICH APPLY THROUGHOUT THE ACTS.

District.	Local Authorities.	Local Rate.
Metropolitan Boroughs	Metropolitan Borough Councils ¹	General Rate. ²
Rural Districts	Rural District Councils	The rate out of which the "general" or "special" expenses of the Public Health Acts are defrayed.

(4) FOR THE PURPOSE OF PART III., INCLUDES ALL THE ABOVE-MENTIONED DISTRICTS, LOCAL AUTHORITIES AND LOCAL RATES.

¹ These Authorities take the place of the Vestries, District Boards and the Woolwich Local Board of Health as Local Authorities under the London Government Act, 1899.

² 1900, s. 3.

SUMMARY

Of the most important alterations in the Law effected by Part I. of the Act of 1909.

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(1) Part III. of the principal Act now applies to rural districts without adoption. S. 1.	Page 64.	(1) Rural districts formerly excluded from operation under Part III., except under certain conditions.
(2) Land may now be acquired compulsorily for purposes of Part III. without consent of Parliament. S. 2 (1) (2).	" 65.	(2) Consent of Parliament was formerly necessary.
(3) Loans from Public Works Loan Commissioners to be at minimum rate of interest irrespective of duration of loan. S. 3.	" 93.	(3) Formerly the longer the loan the higher the rate of interest.
(4) The Public Works Loan Commissioners may advance money to a public utility society up to two-thirds of the value of the estate or interest in the land or dwellings to be mortgaged. S. 4.	Part III., page 78.	(4) Formerly the advance was not to exceed one-half of such value.
(5) Where purchase-money or compensation for land is payable by one authority to another authority, the money may be paid as the Board determine. S. 5.	Page 83.	(5) Formerly purchase-money or compensation was paid into Court.
(6) The Local Authority may, under Part III. of the principal Act, lay out and construct roads or contribute towards cost of the roads, in connection with a housing scheme. S. 6.	" 69.	(6) Previously the Local Authority had no powers to do this.

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(7) A Local Authority may accept a donation of land, money, or other property, for the purposes of the Housing Acts, and the necessity of enrolling any assurance with respect to any such property under the Mortmain and Charitable Uses Acts, 1888, is dispensed with. S. 8.	Page 86.	(7) Previously the Local Authority had no powers to do this.
(8) Additional powers are given to the Board to enforce Local Authorities to proceed under Parts II. or III., upon complaint from County Council or inhabitant householders. S. 10.	Part II., page 57 " III., " 72.	
(9) The Board on failure of Local Authority to carry out Parts I. or II. have power to order scheme to be executed within a limited time. S. 11.	" I., " 31. " II., " 57.	
(10) The limits of rents to include implied conditions on letting to working classes is increased. S. 14.	Page 105.	(10) Extends Section 75 of the principal Act.
(11) Landlords are under an implied contract to keep houses let to working classes in repair during the holding. S. 15.	" 105.	(11) Previously the implied condition only referred to the condition of the house at commencement of the holding.
(12) Power of Local Authority as to making bye-laws with respect to lodging houses for working classes is extended. S. 16.	" 86.	(12) Extends Section 62 of the principal Act.
(13) Procedure for closing and demolition orders entirely amended, with important alterations. S. 17.	Pages 37 and 110.	(13) Repeals Sections 32 & 33 of the principal Act.

THE HOUSING ACTS.

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(14) Local Authority must keep records of their inspection of houses in their district. S. 17.	Pages 37 and 103.	
(15) After July 1st, 1910, underground rooms used as sleeping places, are deemed to be unfit for human habitation, unless they conform to certain regulations. S. 17.	Page 110.	
(16) Power of court of summary jurisdiction to extend time for owner to execute works or demolish a building, is restricted. S. 21.	" 60.	(16) Repeals part of Section 47 (3) of principal Act.
(17) Under Part I. an official representation need only state "that the most satisfactory method of dealing with the evils connected with such houses, courts or alleys, and the sanitary defects in such area, is an Improvement Scheme." S. 22.	" 15.	(17) Formerly the official representation had to actually allege "the evils connected with such houses, courts or alleys, and the sanitary defects in such area cannot be effectually remedied otherwise than by means of an Improvement Scheme."
(18) An Improvement Scheme under Part I. can now include or exclude neighbouring lands, whether for sanitary or other purposes. S. 23 (1).	" 16.	(18) Formerly an Improvement Scheme under Part I. could only include or exclude neighbouring lands to make the same efficient for sanitary purposes only.
(19) An Improvement Scheme under Part I. may provide for any matters, other than those enumerated in Section 6 of the principal Act (including the closing and diversion of highways), in order to render the scheme efficient. S. 23, (1).	" 17.	(19) Extends scope of Section 6 of principal Act.

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(20) Schemes under Part II may now make provision for any matters for which provision may be made in a scheme under Part I. S. 23 (2).	Page 48.	
(21) Confirmation by Parliament is not necessary for an order of the Board to take effect for confirming an Improvement Scheme under Part I, or sanctioning a Reconstruction Scheme under Part II. S. 24.	(21) Confirmation of Parliament formerly necessary in nearly all cases.	
(22) The Board can permit a Local Authority to modify an Improvement or Reconstruction Scheme by amending or adding to the scheme in matters of detail. S. 25.	18. " 48. " 27. " 49.	
(23) The machinery for the inspection of unhealthy areas under Section 16 of the principal Act is simplified. S. 26.	" 32.	
(24) Power is now given to Local Authorities whereby they may, by agreement with the persons interested, avoid the vesting of water pipes, etc., in themselves under schemes carried out under Parts I.-II. S. 27.	(24) Water pipes, etc., formerly vested in Local Authority. Part I., page 25. " II., " 49.	
(25) The defects in the machinery of Section 38 of the principal Act as to compensation money and betterment charges are removed. S. 28.	Page 45. " 46.	

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(26) A deficiency in the Dwelling House Improvement Fund cannot be made good out of borrowed money, unless it arises in respect of money required for purposes of which borrowed money is, in the opinion of the Board, properly applicable. S. 30.	Page 28.	(26) Section 24 (2) of the principal Act states that any deficiency in the Dwelling House Improvement Fund for the purposes of Part I. must be made good out of local rates, or out of moneys borrowed in pursuance of the Act.
(27) The proceeds of any sales of lands under Section 60 of the principal Act can be applied for any purpose, including repayment of borrowed money, for which capital money may be applied, and which is approved by the Board. S. 32.	,, 70.	(27) Under the principal Act the proceeds were to be applied towards the purchase of other land better suited for the purpose.
(28) A Local Authority is not liable to make good any deficiency of land tax or poor rate caused by the land being taken over or used for the purposes of the Housing Acts, while the works are being completed. S. 34.	,, 88.	(28) Formerly a Local Authority under Section 133 of the Lands Clauses Consolidation Act, 1845, had to make good any deficiency in land tax or poor rate until completion of the works for which the land was taken.
(29) Houses occupied for the sole purpose of letting lodgings to persons of the working classes, at a charge not exceeding 6d. per night, are exempt from assessment to Inhabited House Duty. S. 35.	,, 75.	(29) Such houses were formerly liable to Inhabited House Duty.
(30) Increased powers of entry are given to Local Authorities and the Board to inspect houses for purposes of survey, valuation and examination. S. 36.	,, 81.	

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(31) The Board is now enabled to obtain from Local Authorities reports upon congested areas. S. 37.	Page 80.	
(32) The Board may make rules to determine the procedure on any appeal under the Act, including costs, and the Board are empowered on any such appeal to make such order in the matter as they think equitable. S. 39.	" 81	
(33) A Local Authority is not obliged to sell or dispose of any lands or dwellings acquired or constructed by them for any purposes of the Housing Acts. S. 40.	" 88.	(33) This section in the new Act repeals Section 12 of the principal Act, under which a Local Authority was required to sell the houses within 10 years after the time of their completion.
(34) The Board have a general power of prescribing the form of notices, advertisements, or other documents, and also of dispensing for any reasonable cause with the publication of advertisements, or the service of notices under the Housing Acts. S. 41.	" 83	(34) This power of the Board formerly applied to Part I. only.
(35) In place of publication in the "London Gazette," it is now sufficient to insert in two local newspapers a notice giving short particulars of the scheme, etc., and stating where copies of such particulars can be obtained. S. 42.	" 88.	(35) Publication in "London Gazette" was formerly compulsory in certain cases.

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(36) The erection of back-to-back houses is prohibited in future, but to this general rule there are two exceptions. S. 43.	Page 109.	
(37) The Board have powers to revoke or make new bye-laws where the erection of working-class dwellings is impeded by the bye-laws in force in the district. S. 44.	" 84.	
(38) The site of an ancient monument or other object of archaeological interest is saved from acquisition under the Housing Acts. Land which belongs to any Local Authority, or has been acquired by any Corporation or Company for the purposes of a railway, dock, canal, water or other public undertaking, or which forms part of any park, garden or pleasure ground, or is required for the convenience or amenity of any dwelling house, is exempted from compulsory acquisition under Part III. S. 45.	" 86. " 69.	
(39) A person receiving poor relief is not, on that account, disqualified from becoming a tenant or occupier of a lodging house. S. 46.		(39) The receipt of poor relief formerly disqualified a person from becoming a tenant or occupier of a lodging house.

UNDER THE ACT OF 1909.	REFERENCE IN THIS BOOK.	REMARKS.
(40) The term "street" in Part I. has now the same meaning as in Part II., <i>i.e.</i> , includes any court, alley, street, square or row of houses. S. 48.	Part I., page 15. " II., " 36.	(40) Formerly the term "street" was not defined in Part I.
(41) The definition of the term "dwelling house" is amended by the omission of the words 'means any inhabited building and.' Consequently a house would not cease to be a dwelling house within the definition merely because it ceased to be occupied. S. 49 (1).	Page 36.	(41) Amends the definition "dwelling house" in Section 29 of the principal Act, which was as follows: "The expression dwelling house means any inhabited building and includes any yard, garden, outhouses and appurtenances belonging thereto, or usually enjoyed therewith, and includes the site of the dwelling house as so defined."
(42) The term "owner" is enlarged to include, in addition to the definition given in the Lands Clauses Acts, all lessees or mortgagees of any premises to be dealt with under Part II., except persons holding or entitled to the rents and profits of the premises, under a lease of which the original term is less than 21 years. S. 49 (2).	" 36.	(42) Amends definition in Section 29 of the principal Act.
(43) A new definition is given to the expression "cottage." The effect is to substitute one acre for half-an-acre as the limit of size, and to remove any limitations in regard to the estimated annual value of the garden which may be provided with a cottage under Part III. S. 50.	" 64.	(43) Amends Section 53 (2) of the principal Act.

CHAPTER 2.

UNHEALTHY AREAS.

SYNOPSIS OF MAIN PROVISIONS CONTAINED IN

Part I.

In cases where there is an unhealthy area—

- (1) **the medical officer of health is to make a representation** to the Local Authority. After consideration
- (2) **the Local Authority may pass a resolution** to the effect that an Improvement Scheme ought to be made.
- (3) **An Improvement Scheme must then be prepared** for dealing with the area. The Local Authority then
- (4) **advertise the same and serve notices** on owners, lessees and occupiers of lands, to be taken compulsorily. After complying with the necessary formalities they must
- (5) **petition the Local Government Board** for an order confirming the scheme, which must be accompanied by a list of those persons who dissent in respect of the taking of their lands.
- (6) **The Board may direct a local inquiry to be held**, to verify the facts and receive any objection to the scheme. The Board may then

- (7) **make an order** authorising the Local Authority **to carry out the scheme.**
- (8) **Copies of the Board's order to be served** upon the same persons on whom notices were previously served under No. 4 above.
- (9) **The Local Authority must then take steps to purchase the land** and do all things necessary to carry out the scheme.

UNHEALTHY AREAS.

PART I. of the 1890 Act deals with areas or districts which are unhealthy, and the steps to be taken to remedy the same.

The districts to which this Part applies are the County of London, City of London, boroughs (other than Metropolitan boroughs) and urban districts,¹ as to which see Chapter I., page 4.

An unhealthy area as defined by the Act comprises—

- (a) Any houses, courts or alleys unfit for human habitation, or where
- (b) the narrowness, closeness and bad arrangement, or the bad condition of the streets (which includes any court, alley, street, square or row of houses)² and houses or groups of houses within such area, or the want of light, air, ventilation or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings in the said area or of the neighbouring buildings.³

A medical officer of health⁴ whenever he sees cause must make a representation⁵ to the Local

Districts to which this Part applies.

What an unhealthy area comprises.

Official representation as to Improvement Scheme.

¹ It will be observed that this Part does not apply to rural districts.

² 1909, s. 48.

³ 1890, s. 4.

⁴ The duties of a medical officer of health extend to any person authorised to act temporarily as such. 1890, s. 79 (1). As to London, see page 19. In case of the illness or unavoidable absence of a medical officer of health, the Local Authority may, subject to the approval of the Local Government Board, appoint a duly qualified medical practitioner for a period of six months or less. 1890, s. 26.

⁵ Referred to in the Act as "official representation" (1890, s. 5), and in very case under this Part must be in writing. 1890, s. 79 (2).

Authority to the effect that a certain area is unhealthy, and that the most satisfactory method of dealing with the evils connected with such houses, courts or alleys and the sanitary defects in such area is an improvement scheme for the rearrangement and reconstruction of the streets and houses within such area or of some of such streets or houses.

Resolution to
prepare
Improvement
Scheme.

The Local Authority must consider such representation, and, if satisfied as to its truth and of the sufficiency of their resources, must pass a resolution to the effect that the area is an unhealthy area, and that an Improvement Scheme ought to be made, and after passing such resolution they must forthwith proceed to make such scheme. Any number of areas may be included in the Improvement Scheme.¹

Requisites of an
Improvement
Scheme.

The Improvement Scheme of a Local Authority must be accompanied by maps, particulars and estimates, and—

- (a) may exclude any part of the area as to which an official representation is made or include any neighbouring lands, if the Local Authority are of the opinion that such exclusion is expedient or necessary or inclusion is desirable for making their scheme efficient, and
- (b) may provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for purposes of ventilation or health; and
- (c) must provide such dwelling accommodation, if any, for the working classes displaced by the scheme as is required to comply with the Act²; and
- (d) must provide for proper sanitary arrangements; and

¹ 1890, s. 4, as amended by 1909, s. 22.

² See page 21 for provisions as to re-housing displaced persons.

- (e) may provide for any other matters (including the closing and diversion of highways) for which it seems expedient to make provision with a view to the improvement of the area or general efficiency of the scheme.

The scheme must distinguish the lands¹ proposed to be taken compulsorily.

The scheme may also provide for the whole scheme or any part of it being carried out and effected by the person entitled to the first estate of freehold in any property forming part of the scheme or with the concurrence of such person, under the superintendence and control of the Local Authority, and upon such terms and conditions to be embodied in the scheme as may be agreed upon between the Local Authority and such person.²

When the Improvement Scheme is completed the Local Authority must—

- (a) advertise for three consecutive weeks in a local newspaper the fact that a scheme has been made, and its extent, and mentioning where a copy of the scheme may be seen ; Publication and service of notices.
- (b) within thirty days from the date of the last advertisement serve notices on every owner or reputed owner, lessee or reputed lessee and occupier of any land proposed to be taken compulsorily (so far as such persons can be reasonably ascertained), stating that it is proposed to acquire such lands compulsorily, for the purpose of an Improvement Scheme, and requiring an answer from any owner or reputed owner, lessee or reputed lessee, as to whether he dissents or not to such acquisition ;

¹ " Land " includes any right over land. 1890, s. 93.

² 1890, s. 6, as amended by 1909, s. 23 (1). See also page 26.

(c) serve notices either

- (1) by personal delivery to the person to be served, or if he is abroad or cannot be found, to his agent, and if no agent can be found, by leaving the same on the premises, or
- (2) by leaving the same at, or by post addressed to, the usual or last known place of abode of such person.

(d) In the case of an occupier or occupiers of any house it is sufficient if one notice is left there without naming him or them.¹

Petition for
order confirm-
ing Improve-
ment Scheme.

After complying with the above the Local Authority must petition the Local Government Board for an order confirming the Improvement Scheme.

The petition must be accompanied by—

- (a) A copy of the scheme ;
- (b) a list of those persons who dissent in respect of the taking of lands, and
- (c) any evidence, relating to the scheme, which the Local Government Board² may from time to time require.

Holding of
local inquiry.

After being satisfied that the formalities as to advertisements, notices, etc., have been complied with,³ the confirming authority may, if they consider it advisable to proceed with the scheme, direct a local inquiry to be held to verify the facts and receive any local objections to the scheme.

Granting of
order.

After receiving the report as to such inquiry the confirming authority may make an order stating the limits of the area included in the scheme, and authorising the same to be carried out.⁴

The scheme may be the same as that included in the petition,⁵ or with such conditions and modifica-

¹ 1890, s. 7, as amended by 1903, s. 5 (1). As to dispensing with the notices under certain conditions, see 1909, s. 41, referred to on page 83.

² Referred to in this Part as the 'Confirming authority.' 1890, s. 8 (2).

³ As to dispensing with this proof, see page 83.

⁴ 1890, s. 8, as amended by 1903, s. 5 (2) (3). This order will take effect without confirmation. 1909, s. 24 (2).

⁵ As mentioned above.

tions as the confirming authority may think fit, but no addition must be made to the lands proposed to be taken compulsorily.¹

The Local Authority must then serve a copy of such confirming order upon each person whose lands are proposed to be taken compulsorily, in a similar manner to which the preliminary notices were served (excepting only to tenants for a month or less period).²

Copies of order to be served.

Reasonable costs, charges and expenses (properly incurred) may be allowed to any person who opposes the compulsory taking of his lands under the scheme.

All costs, charges and expenses incurred by the confirming authority and any person (to the amount allowed by the confirming authority) in connection with the order, is to be paid by the Local Authority in such manner and at such times as the confirming authority may order—*i.e.*, either in a lump sum or by instalments, with power to charge interest at a rate of not exceeding 5 per cent. per annum on any sum remaining unpaid.

Payment of expenses in connection with confirming order.

Any order made by the confirming authority for this purpose may be made a rule of a superior Court and enforced accordingly.³

SPECIAL PROVISIONS AS TO SCHEMES IN LONDON.

Where an official representation,⁴ relating to not more than ten houses, has been made to the London County Council in connection with Part I., such an area must not be dealt with by them, but by the Local Authority under Part II. of the Act.⁵

¹ The scheme may, with the consent of the Board, be abandoned, amended or added to after confirmation. See page 27.

² See page 17.

³ 1890, s. 8.

⁴ *i.e.*, one made by the medical officer of health of a Local Authority, and in London made either by such officer or by any medical officer of health in London. 1890, s. 5 (1).

⁵ 1890, s. 72.

Special application of Part I. or II. to County of London.

Where it has been officially represented to any Local Authority in the County of London under Part II. that—

- (a) any dwelling houses are in a condition so dangerous or injurious to health as to be unfit for human habitation, or that the pulling down of any obstructive buildings would be expedient, and it is resolved that the case is of such general importance to the County of London that it should be dealt with under Part I., or
- (b) where an official representation has been made under Part I. to the London County Council in relation to any houses, courts or alleys within a certain area, and it is resolved that the case is *not* of sufficient importance to the County of London, and should be dealt with under Part II., the Local Authority or Council may submit the resolution to the Local Government Board,¹ who may appoint an arbitrator and direct him to hold a local inquiry and report to them whether, and to what extent, having regard to the facts and to the provisions of Part I., the case is of importance to the County of London, the arbitrator having the power to report that, in the event of the case being dealt with under Part II., the London County Council ought to contribute towards the expenses dealing with the case.

The Local Government Board may, after considering the report, decide that the case is to be dealt with under Part I. or Part II., and the medical officer of health² must forthwith make the necessary representations.³

¹ Substituted for a Secretary of State by an Order in Council, dated February 27th, 1906; see also page 85.

² The London County Council, with the consent of the Local Government Board, may appoint one or more legally qualified practitioners, at such remuneration as they think fit, for carrying out any part of the principal Act, and such officers are to be considered as medical officers of health of a Local Authority. 1890, s. 76.

³ 1890, s. 73

PROVISION AS TO DISPLACEMENT OF WORKING CLASSES.

The Act of 1890 contains provisions for the accommodation of the working classes displaced by the execution of schemes as follows:—

Re-housing in London.

- (1) If the area is situate in the County or City of London, suitable dwellings must be provided for at least as many persons of the working classes as may be displaced in the area contained in the scheme, and such dwellings must be within the limits of the same area or in its vicinity.

To this there are two exceptions—

- (a) Where it is proved to the satisfaction of the confirming authority that equally convenient accommodation has been, or is about to be, provided for the purpose outside the area or immediate vicinity of the area comprised in the scheme either by the Local Authority or any other person or body of persons, and
 - (b) where the officer holding the inquiry reports that, having regard to the special circumstances of the locality and to the number of artizans and others belonging to the working classes within the area and being employed within a mile thereof that a modification should be made, the order may state that dwellings need not be provided for more than one-half of the persons (or such less proportion as the confirming authority thinks expedient).
- (2) If the area is situate elsewhere than in the County or City of London the confirming authority may require the scheme to provide for the accommodation in suitable

Re-housing outside London.

dwellings of such number of the working classes displaced in such place or places either within or without the limits of the area included in the scheme as the confirming authority (on a report made by the officer conducting the local inquiry) may require.¹

Appropriation of lands for accommodation of working classes.

For the same purpose a Local Authority may also appropriate any suitable lands for the time being belonging to them, or purchase by agreement any such further lands as may be convenient.²

Duty of Local Authority to carry out scheme when confirmed.

When the Improvement Scheme has been approved by the confirming authority, the Local Authority must take steps for purchasing the land, and do as otherwise required for carrying the scheme into execution as soon as practicable.³

ACQUISITION OF LAND.

How the land may be acquired

The following provisions are made to facilitate the acquisition of land for the purposes of this Part.

The Lands Clauses Acts, as to acquiring lands otherwise than by agreement, do not apply, except as set out in Schedule II.⁴ of the principal Act, but otherwise the Lands Clauses Acts are to apply, as amended by the provisions in that schedule, and are to be deemed as being embodied in Part I. of the principal Act, subject, however, to the provisions of this Part, and the following:—

- (a) The Local Authority is authorised to take by agreement any lands which may be required for the execution of the scheme, but compulsory powers must only be exercised in the case of lands which are included in the scheme, as approved by the confirming authority.

¹ 1890, s. 11.

² 1890, s. 23.

³ 1890, s. 12 (1).

⁴ Reprinted on page 259. The Schedule deals chiefly with the appointment of the arbitrator, the procedure to be adopted, the special powers of the arbitrator, payment of purchase-money and appeals.

- (b) In the construction of the Lands Clauses Acts, and Schedule II. of the principal Act, this Part is to be deemed the special Act, and the Local Authority the promoters of the undertaking.

It is important to note that the power to acquire land compulsorily automatically lapses after three years from the passing of the confirming order.¹

Land may also be acquired by donation.²

ASSESSMENT OF COMPENSATION.

In assessing the amount of compensation payable in respect of any lands, or of any interests in any lands acquired compulsorily,

- (a) the valuation is to be based upon the fair market value of the lands and of the several interests in such lands at the time the valuation is made.

Due regard must be paid to the nature and then condition of the property, and the probable duration of the buildings in the then existing state, and also their state of repair. How the land is to be valued.

No additional allowance is to be made in respect of the compulsory purchase of an area or part of such area which is unhealthy, and as to which an official representation³ has been made, or of any lands which, in the opinion of the arbitrator, have been included as coming under the description of property which may be constituted an unhealthy area⁴ under this Part.

- (b) The valuation must not include the value of any addition or improvement to the property which has been made after the date of publication of the Improvement Scheme⁵

¹ 1890, s. 20.

² 1909, s. 8; see page 86.

³ See page 19 (footnote)

⁴ See page 15.

⁵ See page 17.

(unless such addition or improvement was necessary for maintaining the property in a proper state of repair), nor must any separate valuation be made of any interest acquired after such date, so as to increase the amount of compensation.

Evidence to be considered by arbitration.

Evidence may be brought before the arbitrator to prove the following, in which case, if the facts are proved, the compensation is to be based on the following lines :—

EVIDENCE.

- (1) That the house or premises were being used for illegal purposes, or were so overcrowded as to be dangerous or injurious to the health of the inmates.
- (2) That the house or premises are in such a condition as to be a nuisance within the meaning of the Acts relating to nuisances,¹ or are in a state of defective sanitation, or are not in reasonably good repair.
- (3) That the house or premises are unfit and not reasonably capable of being made fit for human habitation.

COMPENSATION.

- (1) So far as it is based on rental is to be based on the rental which could have been obtained if the house or premises were occupied for legal purposes, or were not overcrowded so as to be dangerous or injurious to the health of the inmates.
- (2) Must be the value of the house or premises as if the nuisance had been abated, or as if they had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of abating the nuisance or putting the house or premises into such condition or repair.
- (3) Must be the value of the land, and of the materials of the buildings thereon.

The Local Authority themselves may tender evidence as above, although they may not have taken any steps towards remedying the defects or evils disclosed by the evidence.²

¹ *i.e.*, in London, the Public Health (London) Act, 1891, and elsewhere, the Public Health Acts and also Local Acts relating to Nuisances. 1890, s. 2.

² 1890, s. 21, as amended by 1909, s. 29.

Where a building, or any part of a building, purchased by a Local Authority in pursuance of a scheme under this Part is not closed by a closing order,¹ and is occupied by any tenant whose term is for less than one year, they may (if they require possession for the purpose of pulling down the building) make the tenant a reasonable allowance for the expenses of removal.²

Compensation to tenants for expenses of removal.

When the Local Authority purchase any lands required for the purposes of executing any scheme all rights of way and other easements³ affecting the land, except as mentioned below, become extinguished, and all the soil of such ways, and the property in the pipes, sewers or drains vests in the Local Authority, but compensation must be paid by the Local Authority to any persons or bodies of persons who have sustained loss through such action, and the amount of compensation is to be determined in the same manner as compensation is determined for lands acquired under this Part, or as near thereto as circumstances permit.

Extinction of easements.

An Improvement Scheme may, however, with the consent of the persons or bodies of persons entitled to any right or easement which would otherwise become extinguished, take effect, subject to any such exceptions, restrictions or modifications as may be agreed upon between the parties concerned.⁴

Assuming that the Local Authority have acquired the lands included in the Improvement Scheme, we have next to consider how the area may be dealt with.

The Local Authority—

- (1) may sell or let all or any part of the area comprised in the scheme to any purchasers or lessees, providing that they agree to carry the

How the area may be dealt with.

¹ See page 37.

² 1890, s. 78.

³ Includes rights of laying down, or of continuing any pipes, sewers or drains on, through or under such lands or part thereof, and all other rights or easements in, or relating to, such lands or any part thereof.

⁴ 1890, s. 22, as amended by 1909, s. 27.

scheme into execution. For this purpose the Local Authority may insert in any grant or lease provisions binding the grantee or lessee to build as prescribed in the grant or lease, to maintain and repair the buildings, and not to divide the buildings or make any addition or alteration to the same without the consent of the Local Authority, and providing for revesting the land in the Local Authority or their re-entry thereon on breach of any provision contained in the grant or lease ;

- (2) may engage with any body of trustees, society, or person to carry out the whole or any part of the scheme upon such terms as the Local Authority may think expedient, but the Local Authority themselves must not, without the consent of the confirming authority, undertake the rebuilding of the houses or the execution of any part of the scheme, except that they may
 - (a) take down any or all of the buildings upon the area and clear away the whole or any part ;
 - (b) lay out, form, pave, sewer and complete all such streets upon their land as they may think fit, and these when made and completed are to be considered as public streets repairable by the same authority as other streets in the district ;
- (3) must in all cases impose suitable conditions and restrictions as to elevation, size and design of the houses, the extent of the accommodation and the maintenance of proper sanitary arrangements ;
- (4) may, where they think it expedient, without acquiring the land themselves, or after or subject to their acquiring any part thereof, contract with the person entitled to the first estate of freehold in the land to carry the whole or any part of the scheme into effect.¹

¹ 1890, s. 12 ; see also page 17.

The Local Authority have also power to provide and maintain, with the consent of the Local Government Board, and, if desired, jointly with any other person, any building adapted for use as a shop, any recreation grounds, or other buildings or land which in the opinion of the Board will serve a beneficial purpose in connection with the provision of dwelling houses, and they may raise money for the purpose, if necessary, by borrowing, and may apply, with the necessary modifications, any statutory provisions to the same which would have been applicable thereto if the land or building had been provided under any enactment giving any Local Authority powers for the purpose.¹

The Local Authority must give not less than thirteen weeks notice of their intention to take any fifteen houses or more by means of placards, hand-bills, or other general notices publicly displayed upon the houses or within a reasonable distance of the same. The houses must not be taken by the Local Authority until they have obtained a certificate from a justice of the peace to the effect that this formality has been properly carried out.²

Notice to
occupiers before
taking houses.

If the Local Government Board, on application from the Local Authority, are satisfied that the details of a scheme can be improved upon after the scheme has been authorised by the confirming order, they may permit the Local Authority not only to abandon any part of the scheme, but also to amend or add to the scheme in matters of detail, and such modification respecting the provision of dwellings for the working classes must be such as might have been inserted in the original scheme.³

Scheme may be
abandoned,
modified, or
added to after
confirmation.

¹ 1903, s. 11.

² 1890, s. 14.

³ 1890, s. 15, as amended by 1909, s. 25. As to reconstruction schemes see page 49.

FINANCIAL CONSIDERATIONS RELATING TO UNHEALTHY AREAS.

(1) EXPENSES OF LOCAL AUTHORITY.

Dwelling House
Improvement
Fund.

The receipts of a Local Authority under this Part are to form a fund, to be called the "Dwelling House Improvement Fund," and any expenditure is to be paid out of such fund. The money required to form the fund in the first instance and any subsequent deficiency (owing to the expenditure being in excess of the receipts) must be supplied out of the local rates, or out of moneys borrowed for the purpose of the Acts¹; but no deficiency is to be supplied out of borrowed money unless it arises in connection with money required for purposes to which borrowed money is, in the opinion of the Local Government Board, properly applicable.² In settling any accounts of the Local Authority under this Part care must be taken that all expenditure is to be, as far as possible, ultimately defrayed out of the property, and any balance of profit made must be applied to any purpose for which the local rate is for the time being applicable. The Local Authority may carry to the account of the Dwelling House Improvement Fund any money or produce of any property that can be legally applied to purposes similar to those of this Part. In any case of doubt as to whether the purposes are similar, the confirming authority may decide, and their decision is final.³

Limit of local
rate abolished.

A limit imposed upon local rates by any other Act of Parliament is not to apply to any rate levied for the purpose of defraying any expenses under this Part.

(2) BORROWING BY LOCAL AUTHORITY.

A Local Authority may borrow the money required for the purposes of this Part on the security of the local rate.

¹ 1890, s. 24 (1) (2).

² 1909, s. 30.

³ 1890, c. 24 (3) (4) (5).

The Public Works Loan Commissioners may, on the recommendation of the Local Government Board, lend such moneys on the above security.¹

The money may be borrowed in the following manner:—

(A) In London—

(a) The London County Council may, with the assent of the Treasury, create Consolidated Stock, but any money required for the payment of dividends and the redemption of the Stock is to be charged to the special county account to which the expenditure under this Part is chargeable, and eighty years is the maximum period for which money may be borrowed.²

(b) The Common Council of the City of London may borrow on the credit of one or more of the local rates, and may mortgage such rate or rates to those lending the money for the repayment of the sums borrowed with interest thereon. The clauses of the Commissioners Clauses Act, 1847, are incorporated with this Part with respect to such mortgages, and the "special Act" means this Part of the Housing Acts, the "Council" means the "Common Council," the "Clerk of the Council" includes any officer appointed by the Common Council by this Part, and the mortgagees or assignees may enforce payment of any arrears of principal and interest by the appointment of a receiver.

(B) Outside London—

A Sanitary Authority has the same power to borrow money for these purposes as they

¹ 1890, s. 25 (5). As to terms of borrowing, see page 92.

² 1890, s. 25 (2). The maximum period for repayment of loans was formerly 60 years, but this has now been increased as above by 1903, s. 15.

have under the Public Health Acts for carrying out the provisions of those Acts.¹

The maximum period for the repayment of loans is eighty years, and the amount borrowed is not to be reckoned as part of the debt of the Local Authority for the purpose of limiting its borrowing powers under Section 234 of the Public Health Act, 1875.²

FAILURE OF LOCAL AUTHORITY TO MAKE AN IMPROVEMENT SCHEME.

Where an official representation is made to a Local Authority as to the need of an Improvement Scheme and they fail to pass any resolution in relation to the same, or pass a resolution to the effect that they will not proceed with such scheme, the Local Authority must, as soon as possible, send a copy of the official representation, together with their reasons for not acting upon it, to the confirming authority, who may direct a local inquiry to be held and a report made to them as to the correctness of the official representation made to the Local Authority and any matters which bear upon the subject.³ If the confirming authority consider an Improvement Scheme should have been made for the area or some part of it, they may issue an order to the Local Authority to prepare a scheme either under Part I. or Part II., and the Local Authority must make such scheme and carry it into execution as if they had passed a resolution to that effect, and do all things necessary under the Housing Acts for carrying the scheme into effect. The above order may be enforced by mandamus.⁴

¹ 1890, s. 25.

² 1903, s. 1. See. 234, ss. (2) and (3) of the 1875 Act, states that the sum borrowed with the balances of all outstanding loans, shall not exceed two years' assessable value of the district, and where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year, the Local Government Board shall not give their sanction to such loan until a local inquiry has been held. The period mentioned in this Act is 60 years, but this has been extended by 1903, s. 1, as above.

³ 1890, s. 10.

⁴ 1903 s. 4 (1).

FAILURE OF LOCAL AUTHORITY TO EXECUTE AN
IMPROVEMENT SCHEME, AND POWER OF LOCAL
GOVERNMENT BOARD TO ENFORCE SAME.

If within five years (after the removal of the buildings on any land set aside by a scheme as sites for workmen's dwellings) the Local Authority have failed—

- (1) to sell or let such land for the purposes prescribed by the scheme, or
- (2) to make arrangements for the erection of the dwellings,

the confirming authority may order the land to be sold by public auction or public tender, with full power to fix a reserve price, subject—

- (1) to the conditions imposed by the scheme ;
- (2) to any modifications of the same which may be made in pursuance of the Acts ;
- (3) to a special condition on the part of the purchaser to erect dwellings for the working classes in accordance with plans to be approved by the Local Authority ; and
- (4) to such other reservations and regulations as the confirming authority deem necessary.¹

Under the 1909 Act powers are given to the Local Government Board to the effect that where it appears that a Local Authority have failed to carry out an Improvement Scheme under this Part the Board may make an order requiring the Local Authority to remedy the default and carry out any works or do any other things which are necessary for the purpose under the Housing Acts within a time fixed by the order. Such order may be enforced by mandamus.²

¹ 1890, s. 13.

² 1909, s. 11.

DEFAULT OF MEDICAL OFFICER.

If two or more Justices of the Peace, or twelve or more ratepayers in a district, complain to a medical officer of health of the unhealthiness of any area in the district, the medical officer of health must forthwith inspect the area and make an official representation stating the facts of the case and whether he considers the area, or any part of it, unhealthy or not.¹ In cases where the medical officer of health has failed to inspect such area or make an official representation, or has represented that in his opinion the area is not unhealthy, any twelve or more ratepayers (which need not necessarily be the same as those who complained to the medical officer of health)² may appeal to the confirming authority, and when they have given sufficient security for costs, the confirming authority must appoint a legally qualified medical practitioner to inspect the area and to report to them whether the area, or any part of it, is, or is not, unhealthy.

The same power as to inspection or inquiry may be vested in any inspector or officer of the Local Government Board, or any person employed by the Board.³

The representation must be transmitted to the Local Authority, and if it states that the area is unhealthy the Local Authority must proceed therein as if it were an official representation made to them direct.

The confirming authority must make such order as to costs as they think just, and they may in cases where they decide that—

- (a) the area is *not* unhealthy, require the appellants to pay the whole or any part of the costs, or where

¹ 1890, s. 5 (2).

² 1903, s. 4 (2).

³ 1909, s. 26.

(b) the area *is* unhealthy, require the Local Authority to pay the whole or any part of the costs.

Any order made by the confirming authority for this purpose may be made a rule of the superior court¹ and enforced accordingly.²

GENERAL PROVISIONS APPLYING TO THIS PART.

For these see Chapter 5.

¹ *i.e.*, Supreme Court (1890, s. 93)

² 1890, s. 16.

CHAPTER 3.

UNHEALTHY DWELLING HOUSES.

SYNOPSIS OF MAIN PROVISIONS CONTAINED IN

Part II.

This Part deals chiefly with—

(A) BUILDINGS UNFIT FOR HUMAN HABITATION.

- (1) **The Local Authority must inspect their district** from time to time.
- (2) **The Medical Officer of Health is to make a representation to the Local Authority,** whenever he considers that any house is unhealthy.
- (3) **The Local Authority may,** after considering the representation, **issue a closing order** directing the owner to make the house fit for habitation. The order becomes operative within not less than 14 days after it has been served. If the necessary work is not executed within three months after the order becomes operative, they may
- (4) **make an order for demolition,** and the owner must within three months after the date upon which the order for demolition becomes operative, proceed to demolish the building. In default the Local Authority may themselves demolish the building and sell the materials.

(B) OBSTRUCTIVE BUILDINGS.

Where there is an obstructive building—

- (1) **The Medical Officer of Health must make a representation to the Local Authority, who are to**
- (2) **cause a report to be made to them** as to the cost of demolition and acquiring the land, etc.
- (3) After considering the representation and report, the Local Authority **may decide to acquire the site and dwelling.**
- (4) **A copy of the representation and report is to be forwarded to the owner** with notice of the time and place at which these will be considered. The owner may attend and state his objections. After which
- (5) **the Local Authority may make an order for demolition,** and purchase the site, which may be converted into a highway or other public place.

(C) RECONSTRUCTION SCHEMES.

Where—

- (a) an order for demolition has been made, or
 - (b) the Local Authority consider it necessary to remedy existing evils in a certain area, which is too small to be dealt with by an Improvement Scheme under Part I.,
- (1) **the Local Authority may pass a resolution** directing a scheme for re-construction to be prepared. After the scheme has been prepared,
 - (2) **notices are to be served upon owners, lessees and occupiers** in the manner provided in Part I., relating to notice of lands proposed to be taken compulsorily.

- (3) **The Local Authority must then petition the Local Government Board** for an order sanctioning the scheme. The Board, after considering the petition, may cause
- (4) **a local inquiry to be held**, and if satisfied with the report of such inquiry may
- (5) **make an order sanctioning the scheme**, as a result of which
- (6) **the Local Authority must carry out the scheme** as provided in the order.

Districts to which this Part applies.

Part II. of the 1890 Act, as amended by subsequent Acts, applies to the City of London, the metropolitan boroughs,¹ boroughs other than metropolitan boroughs and urban and rural districts.

The following definitions apply to this Part unless the context otherwise requires:—

Definitions.

“*Street*” includes any court, alley, street, square, or row of houses.

“*Dwelling house*” includes any yard, garden, outhouses and appurtenances belonging thereto, or usually enjoyed therewith, and includes the site of the dwelling house so defined.

“*Owner*,” in addition to the definition given by the Lands Clauses Act,² includes all lessees or mortgagees of any premises required to be dealt with under this Part, except persons holding or entitled to the rents and profits of such premises under a lease the original term of which is less than twenty-one years.³

¹ The London County Council may, in certain cases, exercise powers of a metropolitan borough council. See page 52.

² The Lands Clauses Act, 1845, defines an “owner” as meaning any person or corporation who, under the provisions of the Act, or special Act, would be enabled to sell and convey lands to the promoters of the undertaking.

³ 1909, s. 49 (2).

Definitions—*continued*.

“*Closing order*” means an order prohibiting the use of premises for human habitation.

“*Land*” includes any right over land (unless the context otherwise requires).¹

The duties of a medical officer of health extend to any person authorised to act temporarily as such,² and every representation made by a medical officer of health must be in writing.³

(A) BUILDINGS UNFIT FOR HUMAN HABITATION.

Every Local Authority must, from time to time, inspect their district to ascertain whether any dwelling house is in a state so dangerous or injurious to health as to be unfit for human habitation, and must conform to any regulations made for the purpose by the Local Government Board.⁴

Inspection of district to be made from time to time.

The medical officer of health for any district must report such a building to the Local Authority.⁵

Official representation to Local Authority.

The Local Authority, upon receiving the representation from the medical officer of health, or from any other officer of the authority, or from other information to the effect that a dwelling house is in such a state, must issue an order (called a closing order) prohibiting the use of such dwelling for human habitation until, in their judgment, it has been made fit for that purpose.⁶

Notice of a closing order must forthwith be served upon every owner⁷ of the dwelling house, and any

As to closing orders.

¹ 1890, s. 93.

² 1890, s. 79 (1).

³ 1890, s. 79 (2).

⁴ 1909, s. 17 (1). In case of failure to carry out the inspection, see page 57.

⁵ 1890, s. 30.

⁶ The 1909 Act entirely amends the procedure for demolition and closing orders under the 1890 Act, and any reference in the Housing Acts to a closing or demolition order is to be construed as a reference to a closing or demolition order under the 1909 Act. 1909, s. 47 (2).

⁷ For meaning of “owner” see page 36.

owner aggrieved may appeal to the Local Government Board within fourteen days after the service of the notice.¹

As soon as the closing order becomes operative,² notice must be served upon every occupying tenant of the dwelling house for him and his family to cease to inhabit the same, within such period mentioned in the notice, not being less than fourteen days after the service of the same. In default he will be liable on summary conviction to quit the dwelling house within the time mentioned in the order. Possession may be obtained (without prejudice to the enforcement of the penalty), whatever may be the value or rent of the house, by or on behalf of the owner or Local Authority, either under the County Courts Act, 1888 (S.s. 138 to 145), or the Small Tenements Recovery Act, 1838, as provided for therein, and in each case possession may be obtained as if the owner or Local Authority were the landlord; and any expenses incurred by a Local Authority may be recovered from the owner of the dwelling house as a civil debt in manner provided by the Summary Jurisdiction Acts.³ Unless the tenant or any person responsible to him has, by wilful act or default, rendered the house unfit for habitation, the Local Authority may, with the consent of the owner, make such reasonable allowance as they think fit towards the expenses of removal.

If the owner disagrees with the amount allowed the sum is to be fixed by a court of summary jurisdiction, and is recoverable by the Local Authority from the owner as a civil debt.

Determination
of closing
order.

A closing order ceases to operate when the Local Authority are satisfied that the house has been made fit for human habitation.

¹ As to procedure see page 81, and also 1890, s. 35, on page 62.

² i.e., fourteen days after service of the closing order.

³ 1903, s. 10. In the 1890 Act, s. 32 (3), a penalty could be imposed of 20s. per day during the disobedience of the tenant to comply with the order, but although this section has been repealed by the 1909 Act, the provision as to penalty remains in force.

If, on the application of the owner, the Local Authority refuse to determine the closing order, he may appeal to the Local Government Board within fourteen days after the application is refused.¹

Appeal to
Local Govern-
ment Board.

Where a closing order has remained operative for three months, the Local Authority must consider the question of the demolition of the dwelling house, and give notice to every owner of the time (being not less than one month after the service of the notice) and place where the question is to be considered, and any owner is entitled to be heard at such time and place.²

Consideration
as to demoli-
tion.

If the Local Authority consider that—

- (1) the dwelling house has not been rendered fit for human habitation and the necessary steps to render it fit are not being diligently taken, or
- (2) the continuance of any building or part of same is a nuisance, or dangerous, or injurious to the health of the public or of the inhabitants of the neighbouring dwelling houses

Order for
demolition
made by Local
Authority.

they must order the demolition of the building.

If the owner undertakes to forthwith render the house fit for human habitation and the Local Authority agree that the same can be done, the latter may postpone the operation of the order for the purpose of giving the owner an opportunity of carrying out the necessary works, but in no case must the additional time allowed exceed six months.

Notice of an order for the demolition of a building must be forthwith served on every owner of the same, and any owner aggrieved by the order may appeal to the Local Government Board within twenty-one days after service of the order.³

Execution of
demolition
order.

¹ 1909, s. 17 (1 to 6). As to procedure, see page 81.

² 1909, s. 18 (1).

³ 1909, s. 18; as to procedure, see page 81. For appeals otherwise than to the Local Government Board, see page 62.

Within three months of the order becoming operative¹ the owner must proceed to demolish the building, and if he fails to do this the Local Authority must proceed to demolish the building and sell the materials and pay over to the owner any balance left after deducting the expenses of such taking down and removal.² If the amount realised is insufficient to cover expenses, any deficit may be recovered from the owner as a civil debt in the manner provided by the Summary Jurisdiction Acts or under the provisions of the Public Health Acts relating to private improvement expenses.³ For powers of county council to act in default of metropolitan borough council and rural district council, see page 52.

Provision as to site of demolished building.

Where a building has been demolished no house, building, or erection which will be dangerous or injurious to health must be erected on any part of the site, and if any such house, etc., is erected the Local Authority may order the owner to abate the same, and in the event of his not complying they may abate or alter the same at the expense of the owner.⁴

Charging order on premises for work ordered by Local Authority.

Where an owner has completed the works required to be executed by an order of a Local Authority under this Part, he may apply to the Local Authority for a charging order.⁵ He must produce to the authority the certificate of their surveyor and engineer that the works have been properly carried out, and also all accounts and vouchers for the costs, charges and expenses of the works. The Local Authority, when satisfied that the necessary works have been carried out and that the amounts of the costs, charges and expenses, together with the costs of obtaining the charging order have been properly incurred, are required to make an order accordingly, charging on the dwelling house an annuity to repay the amount.

¹ As to when the order becomes operative, see page 62; also under "Appeals," page 82.

² 1890, s. 34 (1).

³ 1903, s. 9.

⁴ 1890, s. 34.

⁵ This procedure is provided so that there may be no excuse for the continuance of an unhealthy dwelling house in the case of limited or embarrassed ownership.

The annuity charged is to be a sum of six per cent. on the capital outlay, and so in proportion for any less sum.

Grant of charges by way of annuity to owner on completion of works.

It is to commence from the date of the order, and is payable for a term of thirty years to the owner named in the order, his executors, administrators, or assigns.

The annuity may be recovered by the person for the time being entitled to it by the same means and in like manner in all respects as if it were a rent-charge granted by deed out of the dwelling house by the owner of the dwelling house.¹

The annuity may be redeemed at any time on payment to the person entitled to it of such sum as may be agreed upon, or, in default of agreement, as determined by the Local Government Board.²

Redemption of charge.

The charge created by a charging order is to be a charge on the dwelling house specified in the order having priority over all existing and future estates, interests and incumbrances, with the exception of quit rents and other charges incident to tenure, and any charge created under any Act authorising advances of public money, or charges created or arising under any provision of the Public Health Acts, or under any provision in any local Act authorising a charge for recovery of expenses incurred by a Local Authority.³

Incidence of charge.

Where more charges than one are charged on a dwelling house, they are, as between themselves, to take order according to their respective dates.

A charging order is to be conclusive evidence that all notices, acts and proceedings directed by this Part with reference to or consequent on the obtaining

Charging order to be conclusive evidence of regularity.

¹ 1890, s. 36.

² 1909, s. 19.

³ 1890, s. 37 (1). As amended by 1909, s. 20.

of the order, have been duly served, done and taken, and that the charge has been duly created, and that it is a valid charge on the dwelling house declared to be subject to it.

Registration of
charging order
and deposit of
copies.

Every charging order, if it relates to a dwelling house in the area to which enactments relating to the registration of land in Middlesex apply, or to a dwelling house in Yorkshire, is to be registered in like manner as if the charge were made by deed by the absolute owner of the dwelling house.

Copies of the charging order, and of the certificate of the surveyor or engineer, and of the accounts as passed by the Local Authority, certified to be true copies by the clerk of the Local Authority, must, within six months after the date of the order, be deposited with the Clerk of the Peace of the county in which the dwelling house is situate, and must be filed and recorded by him.

Transfer of
charge.

The benefit of a charge may be, from time to time, transferred in like manner as a mortgage or rent-charge may be transferred.¹

LOCAL GOVERNMENT BOARD, ON COMPLAINT, MAY
COMPEL LOCAL AUTHORITIES TO EXERCISE
THEIR POWERS.

If any four or more householders complain in writing to the medical officer of health that any dwelling house is in a condition unfit for human habitation, he must forthwith inspect the same and transmit to the Local Authority the complaint, together with his opinion thereon, and if he considers the complaint refers to a proper case, must make a representation to that effect to the Local Authority, but the absence of such complaint does not excuse him from inspecting any dwelling house and reporting thereon to the Local Authority. If,

¹ 1890, s. 37 (2 to 5).

within three months after receiving the complaint and opinion of the medical officer, the Local Authority (not being in the administrative County of London or in a rural district) declines or neglects to take any proceedings, the householders who signed such complaint may petition the Local Government Board for an inquiry, and the Board, after holding the inquiry, may make a binding order on the Local Authority to proceed under this Part.¹

(B) OBSTRUCTIVE BUILDINGS.

If a medical officer of health, or any four or more inhabitant householders of a district, finds that any building, *although not in itself* unfit for human habitation, is such that owing to its proximity to, or contact with, other buildings causes one of the following effects:—

- (1) stops or impedes ventilation, or makes, or tends to make, other buildings in a state unfit for human habitation, or injurious to health, or Definition of an obstructive building.
- (2) prevents proper measures being taken to remedy any nuisance injurious to health or other evils complained of in respect of such buildings,

the medical officer must represent to the Local Authority that, in his opinion, the building (referred to as an “obstructive building”) should be pulled down.²

Upon receiving such representation the Local Authority must cause a report to be made as to the building, the cost of pulling down and acquiring the land, and then consider the representation and report, and if they decide to proceed must serve a Consideration of report as to an obstructive building.

¹ 1890, s. 31. In case of default by authorities in the administrative county of London or rural districts, see page 56.

² 1890, s. 38 (1).

copy of the representation and report on the owner of the lands on which the building stands, stating the time and place appointed for the consideration, on which occasion the owner may state his objections, and after hearing them the Local Authority must make an order either allowing the objection or directing that the obstructive building is to be pulled down.

The order may be appealed against in the same manner as an order for demolition.¹

Purchase of
site of an
obstructive
building.

Where there is no appeal, or an appeal is made which fails or is abandoned, the Local Authority are authorised to purchase the land on which the obstructive building is erected as if they were empowered by a special Act to do so. For this purpose the Lands Clauses Acts as to compulsory purchase are deemed to form part of the principal Act, but subject to the provisions of this part and for the purpose of the Lands Clauses Acts this part of the Act is to be deemed the special Act, and the Local Authority the promoters of the undertaking. Such lands may be purchased at any time within one year after the date of the order, or, if the order is appealed against, after the date of its confirmation.²

Owner may
retain site of
obstructive
building.

The owner of the lands may within one month after the notice has been served upon him declare that he desires to retain the site of the obstructive building, and undertake either to pull down the building or permit the Local Authority to do so, in which case the owner is allowed to retain the site and receive compensation from the Local Authority for the pulling down of the obstructive building.³

Provisions as to
compensation.

The amount of such compensation and also the amount to be paid on the purchase of any lands under this section is, in case of difference, to be

¹ 1890, s. 38 (3), see page 39.

² 1890, s. 38 (4).

³ 1890, s. 38 (5).

settled by arbitration as provided in this Part,¹ and such compensation is to be apportioned by the arbitrator between any persons having an interest in the compensation.²

Where the Local Authority is empowered to purchase land compulsorily the owner cannot insist on their taking his entire holding where only a part is obstructive, and where such part may (in the opinion of the arbitrator to whom the question of disputed compensation is submitted) be severed from the remainder of the house or other building or manufactory without material detriment to the same. But compensation may be awarded as to severance of the part it is proposed to take in addition to the value of that Part.³ As to severance.

Where, in the opinion of the arbitrator, the demolition of an obstructive building adds to the value of any other buildings,⁴ he must apportion amongst such other buildings so much of the compensation as may be equal to the increase in the value of the other buildings, and the amount apportioned to each of such buildings is deemed to be private improvement expenses incurred by the Local Authority in respect of such building, and they may make and levy private improvement rates on the occupier of the premises to defray such expenses; and the provisions of the Public Health Acts⁵ are, as far as possible, to apply as if they were incorporated in the principal Act.⁶ For this purpose the Public Health Acts extend to the County and City of London, and the metropolitan borough councils and the Common Council of the City are taken to be Urban Authorities under the Public Health Acts.⁷ The power of the As to betterment.

¹ See page 60.

² 1909, s. 28 (1).

³ 1890, s. 38 (7).

⁴ *i.e.*, those buildings in proximity to, or in contact with, the obstructive building (see page 43).

⁵ Public Health Act, 1875. Sections 213 to 215, 232 and 257, which relate to the imposition of private improvement expenses and rates.

⁶ 1890, s. 38 (8).

⁷ 1890, s. 46 (1).

arbitrator to make such apportionment may be exercised where the amount of compensation has been settled otherwise than by arbitration under the Act of 1890 by an arbitrator appointed for the special purpose by the Local Government Board on the application of the Local Authority, and that Act will apply as if the arbitrator had been so appointed to settle the amount to be paid as compensation.¹

Settlement of
disputes as to
compensation.

If any dispute arises between the owner or occupier of any building (to which any amount may be apportioned as private improvement expenses), and the arbitrator by whom the apportionment is made, the dispute is to be settled by two Justices as provided by the Lands Clauses Acts in cases where the compensation claimed in respect of lands does not exceed fifty pounds.²

Site to be
restricted when
retained by
owner.

Where the owner retains the whole or any part of the site, no house, building or erection which will be dangerous or injurious to health, or which will be an obstructive building, is to be erected on the whole or any part of the site; and if such is erected the Local Authority may at any time order the owner to abate or alter such house, building or erection, and if not complied with they may, at the expense of the owner, abate or alter the same.³

How the site
may be dealt
with.

Where the land is purchased by the Local Authority they must pull down the obstructive building or such part as is obstructive and keep as an open space the whole site or such part of it as may be required to be kept open for the purpose of remedying the nuisance or evils caused by the obstructive building, and may, with the consent of and on such terms as the Local Government Board think expedient, sell such portion of the site as is not required for the purposes under consideration.⁴

¹ 1909, s. 28 (2).

² 1890, s. 38 (9).

³ 1890, s. 38 (10).

⁴ 1890, s. 38 (11). Where the sale is effected by a metropolitan borough council the consent of the Local Government Board is necessary.

A Local Authority may, where they think fit, dedicate any such land acquired by them as a highway or other public place.¹

For powers of county councils to act in default of metropolitan councils and rural district councils see page 56.

The power of the Local Government Board to enforce the execution of this Part within a limited time is mentioned on page 57.² Default of Local Authority.

(C) SCHEME FOR RECONSTRUCTION.

In any of the following cases, *i.e.*—

- (1) Where an order for the demolition of a building has been made, and it appears to the Local Authority that it would be beneficial to the health of the inhabitants of the neighbouring dwelling houses, if the area of the dwelling house were used for all or any of the following purposes:—
 - (a) dedicated as a highway, or open space; or,
 - (b) appropriated, sold or let for the erection of dwellings for the working classes; or
 - (c) exchanged with other neighbouring land which is more suitable for the erection of such dwellings, and on exchange will be appropriated, sold or let for such erection; or
- (2) where it appears to the Local Authority that the closeness, narrowness and bad arrangement or bad condition of any buildings, or the want of light, air, ventilation or proper conveniences, or any other sanitary

¹ 1890, s. 38 (12).

² 1909, s. 11. For similar conditions under Part I. see page 31.

defect in any buildings, is dangerous or prejudicial to the health of the inhabitants of the said buildings or neighbouring buildings, and that the demolition or the reconstruction and rearrangement of the said buildings, or some of them, is necessary to remedy the said evils, and that the area comprising these buildings and yards, out-houses and appurtenances, and the site thereof, is too small to be dealt with as an unhealthy area under Part I. of this Act,

the Local Authority must pass a resolution to the above effect and direct a Reconstruction Scheme to be prepared,¹ which may provide for any matters for which provision may be made in an Improvement Scheme under Part I.²

As to what may be included in the Reconstruction Scheme.

As to inclusion of neighbouring lands.

A Reconstruction Scheme may include any neighbouring lands if such inclusion is necessary for the efficiency of the scheme.³

Service of notices.

Notice of the scheme may be served at any time after its preparation as provided for in Part I. relating to notices of lands proposed to be taken compulsorily.⁴

Local Authority must petition Local Government Board.

Local inquiry to be held.

After service of such notice the Local Authority must petition the Local Government Board for an order sanctioning the scheme, and the Board may then cause a local inquiry to be held, and if satisfied that the scheme as a whole (or subject to conditions or modification) would be beneficial to the health of the inhabitants of the said buildings or of the neighbouring dwelling houses, may, by order, sanction the scheme with or without such conditions or modifications.⁵ Upon such order being made the Local Authority may purchase the area mentioned in the

Sanction of scheme.

¹ 1890, s. 39 (1).

² 1909, s. 23 (2).

³ 1903, s. 7.

⁴ 1890, s. 39 (2). See page 17.

⁵ This order will take effect without confirmation. 1909, s. 24 (2).

scheme,¹ and it is their duty to take steps for purchasing the lands required and do as otherwise required for carrying the scheme into execution as soon as practicable.²

The order may incorporate the provisions of the Lands Clauses Acts, and for this purpose the principal Act is to be deemed the special Act, and the Local Authority the promoters of the undertaking. The area must be acquired within three years after the date of the confirmation of the order. The amount of compensation in the event of any difference arising is to be determined by arbitration.³

Acquisition
of land.

Land may also be acquired by Donation.⁴

The powers of the Local Government Board under Part I. as to—

Completion of
scheme on
failure of
Local
Authority.

(1) completion of the scheme on failure of the Local Authority, and

(2) the extinction of rights of way and other easements,

As to rights of
way and other
easements, etc.

apply, with the necessary modifications, to this Part.⁵

The Local Government Board, when satisfied that an improvement can be made in the details of any scheme, may, by order, permit the Local Authority to modify their scheme, not only by the abandonment of any part of the scheme which may appear inexpedient to execute, but also by amending or adding to the details of the scheme.⁶

Scheme may
be abandoned,
modified or
added to after
confirmation.

The Local Government Board, in any order sanctioning a scheme, must make such provisions as they think necessary for the dwelling accommodation of the working classes displaced in consequence of the scheme.⁷

Rehousing of
displaced
persons.

¹ 1890, s. 39 (3).

² 1890, s. 39 (8).

³ 1890, s. 39 (7). See page 50.

⁴ 1909, s. 8. See page 86.

⁵ 1890, s. 39 (8). See page 31, referring to 1890, s. 13, and page 25, referring to 1890, s. 22.

⁶ 1890, s. 39, as amended by 1909, s. 25.

⁷ 1890, s. 40.

Where a building, or any part of a building, purchased by a Local Authority in pursuance of a scheme under this Part is not closed by a closing order,¹ and is occupied by a tenant whose term is for less than one year, they may (if they require possession for the purpose of pulling down the building) make the tenant a reasonable allowance for the expenses of removal.²

SETTLEMENT OF COMPENSATION.

Where the amount of compensation under this Part is to be settled by arbitration, the arbitrator is appointed and removable by the Local Government Board.

Special provisions as to valuation.

In settling the amount of any compensation—

- (a) the valuation of the dwelling house must be based on the fair market value as estimated at time of the valuation and of the several interests in such dwelling house, regard being had to the nature and then condition of the property and the probable duration of the buildings in their existing state and their state of repair, and without any additional allowance for compulsory purchase, but this last provision does not apply to neighbouring lands comprised in the scheme³;
- (b) the arbitrator must take into account and make allowance for any increased value which, in his opinion, will be given to other dwelling houses of the same owner by the alteration or demolition of any buildings.

Evidence determining compensation.

Evidence may be brought before the arbitrator to prove the following facts, and, if proved, the compensation is to be arrived at as set out in the following page:—⁴

¹ See page 37.

² 1890, s. 78.

³ i.e., additional allowance may be made in this case, 1903, s. 7.

⁴ 1890, s. 41 (1), (2) and (3).

EVIDENCE.	COMPENSATION.
(1) That the rental of the dwelling house was enhanced owing to the same being used for illegal purposes, or was so overcrowded as to be dangerous or injurious to the health of the inmates.	(1) so far as it is based on rental, is to be that which would have been obtainable if the dwelling house was used for legal purposes and without overcrowding ;
(2) That the dwelling house is in a state of defective sanitation and not in reasonably good repair.	(2) the value of the dwelling house after deducting the estimated cost of putting it into a sanitary condition and into good repair ;
(3) That the dwelling house is unfit, and is not reasonably capable of being made fit for human habitation.	(3) the value of the land, and of the materials of the buildings thereon.

A Local Authority may give evidence before an arbitrator to prove the above in spite of the fact that they may not have taken any steps to remedy the defects or evils disclosed by the evidence.¹

On payment or tender to the person entitled to the compensation, or as prescribed by the Lands Clauses Acts, the owner must convey his interest in the dwelling house to the Local Authority or as they direct, and in default, or if he fails to adduce a good title, the Local Authority may execute a deed poll as provided by the Lands Clauses Acts.

Conveyance of interest in dwelling house to Local Authority.

Sections 32, 33, 35, 36 and 37 of the Lands Clauses Consolidation Act, 1845, with any necessary modification, apply to an arbitrator and an arbitration under this Part.

Provisions applying to arbitration.

The arbitrator may in his award settle the amount of compensation as to all or any of the dwelling houses included in one or more of the orders of the Local Authority, and he may, and must, if requested by the Local Authority, from time to time make an award dealing with a portion only of the disputed cases before him.

¹ 1909, s. 29.

In the event of the death of the arbitrator, or on his removal, resignation or incapacity before he has made his award, the Local Government Board may appoint another arbitrator, who shall have possession of all the documents relating to the arbitration which were delivered to his predecessor.

The arbitrator may certify the amount of costs properly incurred by any party in connection with the arbitration, and the amount is to be paid by the Local Authority. The certificate of the arbitrator must not, however, be given where the amount awarded is the same, or less, than that offered by the Local Authority, or where the arbitrator considers that the party has, by neglect or otherwise, prevented the Local Authority from making a proper offer of compensation before the appointment of an arbitrator.

If the amount certified is not paid to the party entitled to it, within seven days after demand, it is recoverable as a debt from the Local Authority, with interest at five per cent. per annum during the time it remains outstanding.

The award of the arbitrator is final and binding on all parties.¹

POWERS OF LONDON COUNTY COUNCIL AS TO RECONSTRUCTION SCHEMES.

London County Council may exercise powers of metropolitan borough councils.

The London County Council, either by exercising powers of a metropolitan borough council, or on a representation made by them, or otherwise, where it appears that a scheme ought to be made, may take proceedings for preparing and obtaining confirmation of the scheme, and in such cases they are to act as if they were the metropolitan borough council, and all expenses so incurred are to be borne out of the county fund.² The metropolitan borough council may, if they think fit, pay or contribute towards the expenses.³

¹ 1890, s. 41.

² 1890, s. 45.

³ 1903, s. 14. As to raising the money, see page 55.

Where the county council consider that a metropolitan borough council ought to pay or contribute towards such expenses, and the metropolitan borough council disagree, the county council may apply to the Local Government Board, who, if satisfied that having regard to—

Metropolitan borough councils to contribute towards expenses of county council in certain cases.

- (a) the size of the area,
- (b) the number of houses to be dealt with,
- (c) the position, structure, sanitary condition and neighbourhood of the buildings,

that the whole or a portion of the expenses ought to be borne by the metropolitan borough council, they may order such payment or contribution to be made, and the amount is recoverable by the County Council as a simple contract debt.¹

The amount may be paid either in a lump sum or by annual instalments spread over a number of years.²

FINANCIAL CONSIDERATIONS AS TO PART II.

(I) EXPENSES OF LOCAL AUTHORITY.

All expenses incurred by a Local Authority in carrying out this Part are to be paid out of the local rate.

Payment of expenses out of local rate.

The Local Authority, notwithstanding any Act limiting a local rate, may levy or increase the same.

Any expenses incurred by a rural district council under this Part are to be charged as special expenses on the contributory place³ in respect of which they

Expenses of rural district council to be "special."

¹ 1890, s. 46.

² 1909, s. 33. As to contribution of county council to metropolitan borough councils, see page 54.

³ This expression has the same meaning as in the Public Health Act, 1875.

are incurred, with the exception of the expenses incurred in connection with obtaining a closing order.¹

County council to contribute towards the expenses of metropolitan borough councils in certain cases.

The London County Council may agree to pay or contribute towards the expenses of carrying out a scheme by a metropolitan borough council, and if the latter consider that the county council ought to pay or contribute, but they disagree, the metropolitan borough council may apply to the Local Government Board, who, if satisfied that having regard to—

- (a) the size of the area,
- (b) the number of houses to be dealt with,
- (c) the position, structure, sanitary condition and neighbourhood of the buildings to be dealt with,

may order the council to make such payment, and the amount is recoverable as a simple contract debt by the metropolitan borough council.² The amount may be paid either in a lump sum or by annual instalments spread over a number of years.³

(2) BORROWING BY LOCAL AUTHORITY.

(a) Outside London.

A Local Authority may borrow for the purpose of raising sums required for purchase money or compensation payable under this Part, and for any purpose for which the Local Authority are, by a scheme for reconstruction, or by an order sanctioning the scheme, authorised to borrow in a similar manner as expenses are defrayed in carrying out the Public Health Acts.

The Public Works Loans Commissioners may lend to any Local Authority the sums borrowed under this Part,⁴ but the amount borrowed is not to be

¹ 1870, s. 42.

² 1890, s. 46 (7).

³ 1909, s. 33. As to contribution of metropolitan borough councils to London County Council see *infra* p. 53.

⁴ 1890, s. 43 (1), as amended by 1894, s. (1). The maximum period of repayment is now extended to eighty years.

reckoned as part of the debt of the Local Authority for the purpose of limiting its borrowing powers under the Public Health Act, 1875, s. 234.¹

(b) In London.

The money required for purchasing and paying compensation under this Part, or any purpose for which the Local Authority are authorised to borrow under a reconstruction scheme, or by the order sanctioning the scheme,² may be obtained as follows:—

(a) By the London County Council or the Common Council of the City as under Part I.³

(b) By metropolitan borough councils under the Metropolis Management Act, 1855,

and the provisions of Part I. with respect to borrowing and Sections 183 to 191 of the Metropolis Management Act, 1855, are to apply and have effect accordingly.⁴

The London County Council may lend to a Local Authority in the Administrative County of London the necessary sums for carrying out the provisions of this Part.⁵

(3) ANNUAL ACCOUNTS.

An account must be presented every year to the Local Government Board by every Local Authority stating what has been done and all receipts and expenditure for the previous year under this Part.⁶

¹ 1903, s. 1 (2). For the terms under which loans are made by the Commissioners, see page 92.

² 1894, s. 1.

³ See page 29.

⁴ The maximum period for repayment of loans is now eighty years instead of sixty years, and the annual repayment must be such as is sufficient, with compound interest, to repay the money borrowed within the period sanctioned by the London County Council instead of the £2 per cent. mentioned in the Metropolis Management Act, 1855, s. 190. See 1903, s. 15.

⁵ 1890, s. 46 (2) and (3).

⁶ 1890, s. 44.

POWERS OF COUNTY COUNCILS AS TO METROPOLITAN BOROUGH COUNCILS AND RURAL DISTRICT COUNCILS.

Complaint to
county council
on default of
Local Authority.

Where the medical officer of health¹ or any inhabitant householders make a representation or complaint or give information—

- (a) to any metropolitan borough council or
- (b) to any rural district council elsewhere or to the medical officer of such authority either as to any dwelling house being in a state unfit for human habitation or as to an obstructive building, and also where a closing order has been made as to any dwelling house,

the metropolitan borough council or rural district council must forward to the county council a copy of such representation, complaint, information or closing order, and from time to time report to the council when required as to the proceedings taken by them as to such representation, complaint, information or dwelling house.

Vesting in
county council
of powers of
authority in
default.

Where the county council consider that—

- (a) proceedings for a closing order as respects any dwelling house ought to be instituted, or
- (b) a demolition order ought to be made for any buildings as to which a closing order has been made, or
- (c) an order ought to be made for pulling down an obstructive building specified in any representation made under this Part,

and after reasonable notice in writing (not less than one month) has been given to the metropolitan borough council or rural district council of such opinion, and they consider that such authority have failed to institute or take proceedings or to make a demolition order or take steps for pulling down an obstructive

¹ The London County Council, with the consent of the Local Government Board, may appoint one or more legally qualified practitioners at such remuneration as they think fit for carrying out this Part, and such officers are to be considered as medical officers of health of a Local Authority; 1890, s. 76.

building, the county council may pass a resolution to that effect, and thereupon the powers of the metropolitan borough council or rural district council, as respects the dwelling house and building (otherwise than in respect of a scheme), become vested in the county council; and if a closing order or an order for demolition or pulling down an obstructive building is made and, on appeal, is allowed, the expenses of the council in connection therewith, including any compensation, will become a simple contract debt to the county council from the metropolitan borough council or rural district council. Any such debt is to be defrayed by the authorities as part of their expenses in the execution of this Part.

The county council and any of their officers have, for the purposes of this section, the same right of admission to any premises as any metropolitan borough council or rural district council or their officers, and a justice of the peace may make the like order for enforcing such admission.¹

Power of
county council
to enter
premises.

POWERS OF LOCAL GOVERNMENT BOARD TO ENFORCE EXECUTION OF THIS PART ON FAILURE OF LOCAL AUTHORITY.

The Local Government Board have very complete powers to enforce Local Authorities to carry out this Part. These powers may be exercised—

on complaint of the county council, etc., or four inhabitant householders, to the Board as to such failure on the part of a Local Authority, or

by the Board direct without any formal complaint being made to them.

(1) *Where a complaint is made to the Local Government Board with regard to—*

(a) any rural district by—

(i) the council of the county in which the district is situate,

¹ 1890, s. 45.

- (ii) the parish council or parish meeting of any parish comprised in the district,
- (iii) any four inhabitant householders of the district, or
- (b) any county district, not being a rural district, by—
 - (i) the council of the county in which the district is situated, or by
 - (ii) four inhabitant householders of the district, or
- (c) the area of any other Local Authority by four inhabitant householders of the area,

that the Local Authority have failed to exercise their powers under this Part in cases where those powers ought to have been exercised, the Board may cause a local inquiry to be held, and if, after holding the inquiry, the Board are satisfied that there has been such a failure on the part of the Local Authority, the Board may declare the Local Authority in default, and may make an order directing them, within a time limited by the order, to carry out the works and do such other things as may be necessary to remedy the default.

Where an order so made on the council of a county district is not complied with by the council, the Board may, with the consent of the county council, instead of enforcing that order against the council of the county district, make an order directing the county council to carry out the works or do any other things which are mentioned in the original order for the purpose of remedying the default of the district council.

Where the Board make such order for the purpose of enabling the county council to give effect to the order, they may apply any of the provisions of the

Housing Acts or of Section 63 of the Local Government Act, 1894, with such modifications or adaptations (if any) as appear necessary or expedient.

An order made by the Local Government Board under this section must be laid before both Houses of Parliament as soon as may be after it is made.

Any order so made by the Local Government Board may be enforced by mandamus.¹

(2) *Where it appears to the Local Government Board* that a Local Authority have failed to give effect to any order as to—

(a) an obstructive building,² or,

(b) a Reconstruction Scheme,³ or

(c) have failed to make an inspection of their district,⁴

the Board may make an order requiring the Local Authority to remedy the default and to carry out any works or do any other things which are necessary for the purpose under the Housing Acts within a time fixed by the order.

Such order may be enforced by mandamus.⁵

SUPPLEMENTAL.

An owner of a dwelling house who is not in actual receipt of the rents and profits arising out of it may give notice of such ownership to the Local Authority, who must then communicate with him as to any proceedings taken by them under this Part in respect of such house.

Provision as to superior landlord.

¹ 1909, s. 10.

² See page 43.

³ This is, in addition to the powers mentioned on page 31, referring to 1890, s. 13.

⁴ See page 37, referring to 1909, s. 17 (1).

⁵ 1909, s. 11.

Where it is proved by an owner to a court of summary jurisdiction that default is being made in carrying out any works under a closing order, or in the demolition of a building, or in claiming to retain any site, and that his interests are being prejudiced, the court may make an order empowering him to forthwith enter the premises and carry out the necessary work himself, or to claim to retain the site as the case may be, and the Court may, where they think it just, make a similar order to any other owner.¹

A court of summary jurisdiction may, on application, in any case by order enlarge the time during which a claim may be made to retain the site of a building, provided that notice of the application has been given to the Local Authority.²

Remedies of owner for breach of covenant, etc., not to be prejudiced.

Nothing in this Part is to prejudice or interfere with the right or remedies of any owner for the breach of any covenant or contract entered into by a tenant or lessee with reference to any dwelling house included in an order made by a Local Authority; and if the owner is obliged to take possession of any dwelling house to comply with any such order, the fact of taking possession shall not affect his right to avail himself of any such breach that may have occurred prior to his taking possession.³

Service of notices.

Notices under this Part may be served upon an owner, as follows:—

- (1) Where his residence or place of business is known to the Local Authority and is in their district—
 - (a) by giving it to him or for him to some inmate of the above;
 - (b) by registered letter addressed to the owner.

¹ 1890, s. 47 (1) (2).

² 1899, s. 47 (3) (4), as amended by 1909, s. 21. The power of a court of summary jurisdiction to enlarge the time for the execution of any works or the demolition of a building under a closing order, or under an order for the demolition of a building, now ceases to have effect. See page 8, Art. (16).

³ 1890, s. 48.

(2) Where his residence or place of business is not known, and after diligent enquiry cannot be found, by the Local Authority—

- (a) by leaving it, addressed to him, with some occupier of the dwelling house; or,
- (b) if there is no occupier, by causing the notice to be put up in some conspicuous part of the dwelling house.

Notice served upon the agent of the owner is to be deemed notice to the owner.¹

Any notice is to be considered as properly served upon an owner under this Part if it is sent by post in a registered letter addressed to the owner or his agent at his usual or last known residence or place of business.²

It is sufficient in any proceedings taken under this Part to refer to the “owner” as such without name or further description.³

If the occupier of any dwelling house prevents the owner or his servants, etc., or being the owner or occupier, prevents the medical officer of health or his officers, servants, etc., from carrying out the provisions of this Part after due notice has been given to such person, any court of summary jurisdiction, on proof, may order such person to permit the necessary works to be done.

Penalty for preventing execution of Act.

If such person fails to comply within ten days after service of such order he is liable to a fine of twenty pounds per day, but the owner is not liable unless he assents to the default.⁴

A representation from the medical officer of health of any county, submitted to the county council and forwarded by that council to the Local Authority

Representation by county medical officer.

¹ 1890, s. 49.

² 1903, s. 13 (1). This section renders the procedure unnecessary as set out in 1890, s. 49.

³ 1890, s. 50.

⁴ 1890, s. 51.

of any district in the county, not being a borough as defined by the Municipal Corporations Act, 1882, has, for the purposes of this Part, the same effect as a representation from the medical officer of health of the district.¹

GENERAL PROVISIONS APPLYING TO THIS PART.

For these see Chapter 5.

APPEALS UNDER PART II.

Appeal against
order of Local
Authority.

Any person aggrieved by an order of the Local Authority under this Part may, if he is not entitled to appeal to the Local Government Board against the order,² appeal against the same to a court of quarter sessions, and no work shall be done or proceedings taken under any order until the appeal is determined or ceases to be prosecuted; and Section 31 of the Summary Jurisdiction Act, 1879 (relating to appeals from courts of summary jurisdiction to courts of quarter sessions), applies with the necessary modifications as if the order of the Local Authority were an order of a court of summary jurisdiction.

Provided that—

- (a) notice of appeal may be given within one month after notice of the order of the Local Authority has been served on such person;
- (b) the court must, at the request of either party, state the facts specially for the determination of a superior court, in which case the proceedings may be removed into that court.³

¹ 1890, s. 52.

² For appeals to Local Government Board see page 81.

³ 1890, s. 35.

CHAPTER 4.

WORKING CLASS LODGING HOUSES.

SYNOPSIS OF MAIN PROVISIONS CONTAINED IN

Part III.

IN order to provide additional accommodation for persons of the working classes—

- (1) **the Local Authority may acquire the necessary land** either by agreement or by compulsory purchase, and upon such land—
 - (a) erect lodging houses for the working classes,
 - (b) convert any buildings into lodging houses,
 - (c) alter, enlarge, repair and improve the same, or
 - (d) fit up, furnish and supply the same with the requisite furniture, fittings, etc.
- (2) **The Local Authority may, as to any lands vested in them, sell, lease or exchange such lands.**
- (3) **The Local Authority may manage and control workmen's dwellings** erected by them and may make bye-laws and impose fines relating to the breach of such bye-laws.
- (4) **The Local Authority may also lay out and construct roads.**
- (5) **Companies** may acquire land and erect working class dwellings for persons employed by them.
- (6) **Water and gas companies** may supply water and gas to lodging houses with or without charge.

WORKING CLASS LODGING HOUSES.

Scope of
Part III.

PART III. of the principal Act deals principally with the erection and provision of houses and cottages for the working classes. The expression "lodging houses for the working classes" includes separate houses and cottages, whether containing one or several tenements, while the expression "cottage" may include a garden of not more than one acre.¹ Land includes any right over land (unless the context otherwise requires).²

Districts to
which this
Part applies.

This Part applies to the whole of England and Wales,³ and the districts are as follows:—

County of London (excluding City of London),
City of London, metropolitan boroughs, boroughs
(other than metropolitan boroughs), urban and
rural districts.⁴

The essential difference between this Part and Parts I. and II. (dealt with in the two immediately preceding chapters), is that under this Part Local Authorities may themselves erect workmen's dwellings, which they are expressly excluded from doing under the previous Parts.⁵

Powers of
Local Authority

In the execution of this Part the Local Authority, subject to the provisions of this Part relating to rural authorities, may exercise the same powers of contract, or otherwise, as in the execution of these duties in the case of

(1) the London County Council, under the
Metropolis Management Act, 1855, and
the amending Acts,

¹ 1890, s. 53, as amended by 1909, s. 50.

² 1890, s. 93.

³ 1909, s. 1. Under the 1890 Act Part III. was adoptive, but it now "extends to and takes effect in every urban and rural district, or other place for which it has not been adopted, as if it had been so adopted."

⁴ A county council may, in certain cases, act as a Local Authority in place of a rural district council. See page 71.

⁵ 1890, s. 12 (3) and s. 39 (8).

- (2) urban and rural districts under the Public Health Acts,
- (3) the Common Council of the City of London under the Acts conferring powers on such council.¹

ACQUISITION OF LAND.

Land may be acquired for the purposes of this Part in the following manner:—

How the land
may be acquired

- (1) *By donation*, in which case it is unnecessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888.²
- (2) *By agreement*, in which case the procedure mentioned in the Public Health Act, 1875 (viz., Sections 175 to 178), will apply, and this procedure also extends to London as if the London County Council and the Common Council of the City were a Local Authority.³

A Local Authority may, with the consent of (subject to any conditions imposed by) the Local Government Board, acquire land by agreement, notwithstanding that the land is not immediately required for the purposes of this Part—⁴

- (3) *By compulsory purchase*, by means of an order submitted to the Local Government Board and confirmed by them in accordance with the procedure which is set out in Schedule I. of the 1909 Act.⁵

¹ 1890, s. 56.

² 1909, s. 8. See page 86.

³ 1890, s. 57.

⁴ 1909, s. 2 (3).

⁵ 1909, s. 2. This Schedule is reprinted in full on page 249.

Submission of
order to the
Board.

Briefly the provisions are as follows:—

- (1) The Local Authority may submit to the Board an order putting in force the provisions of the Lands Clauses Acts as to the taking of lands (specified in the order) otherwise than by agreement.
- (2) The order must be confirmed by the Board with or without modifications, and when so confirmed¹ will be final.
- (3) No additional allowance is to be made on account of the land being acquired compulsorily.
- (4) The order must contain provisions for protecting the Local Authority and persons interested in the land, and incorporate (subject to certain adaptations) the Lands Clauses Acts and certain sections of the Railway Clauses Consolidation Act, 1845, but any question of disputed compensation is to be decided by a single arbitrator appointed by the Board.
- (5) Notices are to be published by the Local Authority and also served on owners, lessees and occupiers of the land proposed to be taken.
- (6) If no valid objection is made the Board must, without further inquiry, confirm the order. If an objection is raised a public inquiry must be held, when all persons interested may state their objections.
- (7) If the land is situated in London, or a borough or urban district, the Board must appoint an impartial person (not in the employment of any Government department) to hold an inquiry as to whether

As to dispute
regarding com-
pensation.

Notices.

As to confirma-
tion of order.

As to inquiry.

(a) the land is suitable for the purpose ;

¹ Except as mentioned in paragraph (4).

- (b) having regard to the extent or situation of the land and the purposes for which it is to be used, the land can be acquired without undue detriment to persons interested therein or the owners of the adjoining land.

If it is reported that the land

- (a) as unsuitable ;
 (b) cannot be acquired without such detriment as mentioned in (b) aforesaid, or
 (c) ought not to be acquired except subject to the conditions contained in the report ;

then, if the Board confirm the order as to the purchase of the land or any part thereof, or, as the case may require, confirm it otherwise than subject to such modifications as are required to give effect to the specified conditions, the order is to be provisional only, and is not to have effect until confirmed by Parliament.

Order in certain cases must be confirmed by Parliament.

Where no part of the land is situated as aforesaid, before confirming the order the Board must consider the report of the person who held the inquiry, together with all objections made thereat.

- (8) The arbitrator must, as far as possible, act on his own knowledge and experience and must hear witnesses, but must not (unless the Board so direct) hear counsel or expert witnesses.

- (9) The Board may, with the concurrence of the Lord Chancellor, make rules fixing the scale of costs to apply to arbitration under this Schedule, and the arbitrator may determine the amount of costs, with power to disallow the same in the case of any witness whom he considers has been called unnecessarily, or any other costs needlessly incurred.

Board may fix scales of costs.

As to glebe
land.

- (10) The Board must fix the remuneration of the arbitrator.
- (11) This Act, together with the Order, is to be deemed the special Act, and the Local Authority the promoters of the undertaking.
- (12) Where the land is glebe land or other land belonging to an ecclesiastical benefice, the sums agreed upon or awarded for the purchase of the land, or to be paid in respect of severance or other injury affecting the land, must be paid to the Ecclesiastical Commissioners as set out in the Schedule.

HOW EXISTING HOUSES AND COTTAGES MAY BE ACQUIRED.

A Local Authority may—

(a) *Within their District*

- (1) contract for the purchase or lease of any workmen's dwellings already or hereafter to be built and provided¹;
- (2) appropriate any lodging houses so purchased or taken on lease, and any other land which may for the time being be vested in them, or at their disposal, provided that the consent of the Local Government Board is obtained. In the case of rural district councils the consent of the County Council must be obtained²;
- (3) with the consent of the trustees, purchase, lease, or take over the management of any lodging houses for the working classes provided in their district by private subscriptions.³

¹ 1890, s. 57 (2).

² 1890, s. 57 (3).

³ 1890, s. 58.

(b) Outside the District

establish or acquire lodging houses for the working classes, where such are necessary to supply the needs of their district,¹ but this power does not extend to rural district councils.

ERECTION OF WORKMEN'S DWELLINGS.

A Local Authority may, on any land acquired or appropriated by them,

- (1) *erect* any buildings suitable for lodging houses for the working classes²;
- (2) *convert* any buildings into lodging houses for the working classes,
- (3) *alter*, enlarge, repair and improve the same, or
- (4) *fit up, furnish* and supply the same with all requisite furniture, fittings and conveniences.³

It is important to note that under this Part compulsory powers must not be exercised to acquire any land which belongs to a Local Authority or has been acquired by a corporation or company for the purposes of a railway, dock, canal, water or other public undertaking, or which at the date of the order forms part of any park, garden or pleasure ground, or is required for the amenity or convenience of any dwelling house.⁴

CONSTRUCTION OF ROADS, ETC.

Any Local Authority may, in exercising their powers under this Part, lay out and construct public streets or roads on any land acquired or appropriated by them, or contribute towards the

¹ 1900, s. 1.

² As to the meaning of the expression "lodging houses for the working classes," see page 64.

³ 1890, s. 59.

⁴ 1909, s. 45.

cost of the laying out and construction of any streets or roads on such lands by other persons, provided that the streets and roads are to be dedicated to the public.¹

SALE AND EXCHANGE OF LANDS.

A Local Authority if not a rural district council may, with the consent of the Local Government Board, or, if a rural district council, with the consent of the county council—

- (1) *Sell any land* vested in them for the purposes of this Part, and apply the proceeds
 - (a) towards the purchase of other land better adapted for those purposes, or
 - (b) for any purpose (including repayment of borrowed money) for which capital money may be applied, and which purpose is approved by the Local Government Board;
- (2) *Lease any land acquired* to any lessee, providing that he undertakes to build and maintain lodging houses on the land, but the Local Authority must insert in every lease all necessary provisions for insuring the user of the land and buildings for lodging houses within the meaning of the principal Act, and in particular provisions binding the lessee
 - (a) to build as mentioned in the lease;
 - (b) to maintain and repair the buildings so erected;
 - (c) to secure the use of the buildings exclusively as lodging houses;
 - (d) to prohibit any addition to, or alteration of, the character of the buildings without the consent of the Local Authority.

¹ 1909, s. 6.

A provision shall also be inserted for the re-entry of the Local Authority on the land on breach of any terms of the lease.

Every deed or instrument of demise of the land or buildings must be endorsed with notice of this subsection.

- (3) *Exchange any land* vested in them for land better adapted to the purposes either with or without paying or receiving any money for equality of exchange.¹

POWERS OF COUNTY COUNCIL TO ENFORCE EXECUTION OF THIS PART IN RURAL DISTRICTS.

A county council may, under this Part, exercise the powers of a rural district council

where default has been made by the rural district council and complaint has been made to the county council, or

where the county council consider it expedient to transfer such powers to themselves.

- (1) Where a complaint is made to the county council by the parish meeting or parish council in any rural district in the county or by any four inhabitant householders of the district, the county council may cause a public local inquiry to be held; and if they are satisfied that the rural district council have failed to exercise their powers under this Part the county council may decide to transfer such powers to themselves either as to the whole district or any parish in the district, and such powers are to be transferred accordingly. Subject to the provisions of the Act of 1909, Section 63 of the Local Government Act, 1894,² will

¹ 1890, s. 60, as amended by 1900, s. 5, and 1909, s. 32.

² This section relates to notices, expenses, borrowing, accounts, etc.

apply as if the powers had been transferred under that Act.¹ It is important to note that the Public Health and Housing Committee of a county council² have no power to resolve that the powers of a district council are to be transferred to the county council.³

- (2) Where the county council consider that it is expedient that they should exercise, as to any rural district in the county, any of the powers of a Local Authority under this Part, they may, after giving notice to the rural district council, apply to the Local Government Board, who may make an order conferring such powers on them, and thereupon the provisions of the Housing Acts relating to those powers (including those enabling the Public Works Loan Commissioners to lend, and fixing the terms for which money may be lent and borrowed) will apply as if the council were a Local Authority under this Part. Any expenses incurred by the county council under such order are to be defrayed as expenses for general county purposes. Where under any such order the county council have carried out any works in a rural district, they may transfer the same to the council of that district on such terms and conditions as may be agreed between them.⁴

LOCAL GOVERNMENT BOARD, ON COMPLAINT, TO
ENFORCE EXERCISE OF POWERS.

The Board have the same power, on complaint, to enforce the execution of this Part as under Part II.,⁵

¹ 1909, s. 12.

² Established under the 1909 Act.

³ 1909, s. 71 (1). See page 111.

⁴ 1909, s. 13.

⁵ 1909, s. 10 (1). See page 57.

but before deciding that the Local Authority have made default under this Part the Board must take into consideration—

- (1) the necessity for further accommodation for the housing of the working classes in the district ;
- (2) the probability that the required accommodation will not be otherwise provided and the other circumstances of the case,
- (3) the liability which will be incurred by the rates, and whether it is prudent for the Local Authority to undertake the provision of such accommodation.¹

THE MANAGEMENT OF WORKMEN'S DWELLINGS.

The general management, regulation and control of the dwellings established or acquired by a Local Authority is vested in and exercised by them (except as mentioned below), and they may let the same to tenants at such reasonable charges as they may determine by regulations.²

General control
of workmen's
dwellings.

The Local Authority may make bye-laws for the management, use and regulation of the dwellings, and except where a lodging house is occupied as a separate dwelling, must by such bye-laws make sufficient provision for the following purposes :—

Bye-laws.

- (a) For securing that the lodging houses will be managed and controlled by the officers, servants or others employed by the Local Authority ;
- (b) for securing the due separation at night of men and boys above eight years of age from women and girls ;
- (c) for preventing damage, disturbance, interruption and indecent and offensive language and behaviour and nuisances ;

¹ 1909, s. 10 (2).

² 1890, s. 61.

(d) for determining the duties of the officers, servants and others appointed by the Local Authority.

The provisions of the Metropolis Management Act, 1855 (Sections 202 and 203), relating to bye-laws are, in the Administrative County of London, made to apply to bye-laws authorised by the principal Act, but in other cases the provisions of the Public Health Act, 1875, are to apply.

Bye-laws to be put up in lodging houses.

A printed copy or abstract of the bye-laws must be put up and kept in every room.¹

Fines on breach of bye-laws.

Any fine for the breach of any bye-law is to be paid to the credit of the funds out of which the expenses of this Part are defrayed.² Any fine or penalty under such bye-laws may be recovered on summary conviction.³

The above remarks as to management, bye-laws, etc., do not extend to dwelling houses which have been erected on land which is leased from the Local Authority.⁴

Inspection of lodging houses.

A lodging house established in any district under this Part is to be at all times open to the inspection of the Local Authority or of any officer from time to time authorised by them.⁵

Sale of lodging houses.

When lodging houses established for seven years or more are found by the Local Authority to be unnecessary, or too expensive to keep up, they may sell the same, with the consent of the Local Government Board,⁶ for the best price they can obtain, and must convey accordingly, but nothing in the principal Act is to compel them to dispose of any lands or dwellings acquired or constructed by them for any purposes of the Housing Acts.⁷

¹ 1890, s. 62, and Schedule 6 of that Act, and 1900, s. 84.

² 1890, s. 71.

³ 1890, s. 84.

⁴ 1900, s. 5 (2).

⁵ 1890, s. 70.

⁶ If a rural council, the consent of the county council must first be obtained.

⁷ 1890, s. 64, as amended by 1909, s. 40.

Any houses which are let to persons of the working classes at not more than sixpence per night for each person are exempt from inhabited house duty, upon the production of a certificate from the Commissioners to the effect that the houses are solely constructed and used for the above purpose, and that proper provisions have been made for the sanitary requirements.¹

Exemption of
lodging houses
from inhabited
house duty.

FINANCIAL CONSIDERATIONS AS TO PART III.

(I) EXPENSES OF LOCAL AUTHORITY.

The expenses incurred by a Local Authority under this Part are to be defrayed as follows:—

- (a) By the London County Council and the Common Council out of the Dwelling House Improvement Fund under Part I.²
- (b) By a metropolitan borough council, whether the expenses are incurred within or without the borough, as part of the ordinary expenses of the council.³
- (c) By a borough (other than a metropolitan borough) or urban district council as part of the general expenses of the council in their execution of the Public Health Acts.⁴ In cases, however, where an urban district council does not levy a borough or general district rate, but is empowered by a local Act or Acts to borrow money and levy a rate for purposes similar to those for which a general district rate is leviable, they may defray the expenses of this Part by means of money to be borrowed and a rate to be levied under such local Act or Acts.⁵

¹ 1909, s. 35. The Customs and Inland Revenue Act of 1890 will, as far as applicable, apply to this certificate.

² 1890, s. 65. See page 23.

³ 1900, s. 3 (1).

⁴ 1890, s. 65.

⁵ Note to Schedule I., 1890 Act.

- (d) By a rural district council as general expenses of the council in the execution of the Public Health Acts, unless, with the consent of the Local Government Board, such expenses are levied as special expenses charged on specified contributory places, or as general expenses charged on specified contributory places in the district, in such proportions as the district council may determine to the exclusion of other parts of the district.¹

The district council must give notice to the overseers of any apportionment proposed to be charged on such contributory place, and, if aggrieved, the overseers may appeal to the Local Government Board within twenty-one days after notice of the apportionment has been given.²

(2) BORROWING BY LOCAL AUTHORITY.

The following provisions are made as to borrowing:—

- (a) The London County Council and the Common Council of the City of London may borrow in a similar way to that mentioned in Part I.³
- (b) A metropolitan borough council may borrow in a similar way to that in Part II.⁴
- (c) A borough (other than a metropolitan borough) or an urban district council may borrow in a similar way as for the purpose of defraying general expenses under the Public Health Acts.⁵

¹ 1909, s. 31 (1).

² 1909, s. 31 (2).

³ 1890, s. 66, referred to on page 29.

⁴ 1900, s. 3 (2), referred to on page 55.

⁵ 1890, s. 66.

- (d) A rural district council may borrow in a similar way as for the purpose of defraying general or special expenses under the Public Health Acts.¹

LOANS BY PUBLIC WORKS LOANS COMMISSIONERS
TO COMPANIES, ETC.

The Public Works Loans Commissioners may, in addition to the powers conferred upon them by any other enactment, out of funds at their disposal, advance on loan to any of the following bodies or proprietors the money required for the purpose of constructing, improving or of facilitating or encouraging the construction or improvement of dwellings for the working classes. These bodies or proprietors are—

- (a) Any railway, dock or harbour company, or any other company, society or association established for the above purposes or for trading or manufacturing purposes (in the course of whose business or in the discharge of whose duties persons of the working classes are employed).
- (b) Any private person entitled to any land for an estate in fee simple, or for any term of years absolute of which not less than fifty years remain unexpired.²

The loans will be made as provided in the Public Works Loans Act, 1875, subject to the following :—

- (a) Any advance may be made, whether the body or proprietor receiving the same has or has not the power to borrow on mortgage or otherwise, independently of the principal Act, but nothing in that Act is to repeal or

¹ 1909, s. 31 (1).

² 1890, s. 67 (1).

alter any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of the capital is subscribed for, taken or paid up.

- (b) The period for repayment must not exceed eighty years.
- (c) No money is to be lent on the security of land or dwellings only, unless it is an estate in fee simple or held on lease for a term of years absolute of which not less than fifty years remain unexpired at the date of the advance.
- (d) The amount advanced must not exceed one-half of the value of the land or dwellings as determined by the Public Works Loans Commissioners, or in the case of a public utility society¹ two-thirds. Advances may be made by instalments from time to time as the buildings progress.

For the purposes mentioned above every such body as aforesaid is authorised to purchase, take and hold land, and if not already a body corporate will, for the purpose of holding land and of suing and being sued in respect of it, be deemed to be so with perpetual succession.²

A Local Authority may also accept a donation of money for any purposes of the Housing Acts.³

Power to
companies.

Any railway, dock or harbour company, or any other company, society or association, established for trading or manufacturing purposes, in the course of whose business or in the discharge of whose duties persons of the working class are employed are

¹ A public utility society means a society registered under the Industrial and Provident Societies Act, 1893, or any amendment of it, the rules of which prohibit the payment of any interest or dividend at a rate exceeding 5 per cent. per annum.

² 1890, s. 67 (2) and (3), as amended by 1909, s. 4 (1).

³ 1909, s. 8.

(notwithstanding any Act of Parliament or charter, or any rule of law or equity to the contrary) authorised at any time to erect either on their own land or any other land (which they are hereby authorised to purchase and hold for the purpose and to pay for out of any funds at their disposal) dwellings for the accommodation of all or any persons of the working class employed by them.¹

Any commissioners of waterworks, trustees of waterworks, water companies, gas companies and other corporations, having the management of any waterworks, reservoirs, wells, springs or streams of water and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for lodging houses provided under this Part, either without charge or on such other favourable terms as they think fit.²

Power to water and gas companies, etc., to supply workmen's dwellings.

Where any land acquired by a council under this Part is appropriated for the purpose of re-housing persons displaced by the council under the powers of any other Part of the 1890 Act, or of any other enactment, the receipts and expenditure in respect of the same (including all costs as to acquisition and laying out of the land), and of any buildings upon it may be treated as receipts and expenditure under that Part or enactment, but must be accounted for under a separate head.³

As to accounts.

GENERAL PROVISIONS APPLYING TO THIS PART.

For these see Chapter 5.

¹ 1890, s. 68.

² 1890, s. 69.

³ 1900, s. 4.

CHAPTER 5.

GENERAL PROVISIONS RELATING TO THE HOUSING ACTS.

(I) AS TO THE LOCAL GOVERNMENT BOARD.

The Local Government Board, besides having special powers for dealing with the various Parts, have also general powers which extend throughout the whole of the Housing Acts.

As to Local Inquiries—

For the purpose of carrying out their powers and duties the Board may cause local inquiries to be held, and the costs of the same, including the salary or remuneration of any inspector, officer or person employed by the Board, must be paid by the Local Authorities and persons concerned in the inquiry, in such proportion as the Board may direct, and any such sum shall be a debt to the Crown from the Local Authority or person.

For the purpose of any order to be made or inquiry held by the Local Government Board, Sections 293 to 296 and Section 298 of the Public Health Act will apply.¹

As to obtaining Reports on Crowded Areas—

If it appears to the Board that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area in order to decide whether any powers under the Housing Acts should be put into force, the Board may

¹ 1890, s. 85, as amended by 1909, s. 26.

require the Local Authority to report to them such particulars as may be required, and any expenses incurred by the authority will be considered as incurred under such Part of the principal Act as the Board determine.¹

As to Power of Entry on premises—

Any person authorised in writing by the Local Government Board may at all reasonable times, on giving twenty-four hours' notice of his intention to the occupier and to the owner (if the owner is known), enter any house, premises or buildings for one or other of the following purposes²:—

- (a) survey or valuation in the case of houses, premises or buildings, which the Local Authority are authorised to purchase compulsorily under the Housing Acts.
- (b) survey and examination in the case of any dwelling house as to which a closing order or an order for demolition has been made.
- (c) survey and examination where it appears to the Local Authority or Board that this is necessary to decide whether any powers under the Housing Acts should be exercised in respect of any house, premises or building.

For the above purposes it is sufficient to leave a notice addressed to the occupier, without name or further description, at the house, premises, or buildings.³

Appeals to Local Government Board—

The Board may, by rules, determine the procedure of any appeal to them, including costs, and they may make such order as they think equitable. Any order so made is to be binding and conclusive on all parties.

¹ 1909, s. 37.

² The purpose for which entry is authorised must be stated in writing.

³ 1909, s. 36.

Where the appeal is against any notice, order or apportionment by a Local Authority, the Board may confirm, vary or quash the same, as they think just.

Provided that—

- (a) The Board may, and if directed by the High Court must, at any stage of the appeal, state in the form of a special case, for the opinion of the Court, any question of law arising in the course of the appeal.
- (b) The rules are to provide that the Board must not dismiss any appeal without first holding a public local inquiry.

Any notice, order or apportionment against which the right of appeal is given will not become operative until the time allowed for such appeal has elapsed without an appeal being made, or, in case an appeal is made, the appeal has been either determined or abandoned, and no work shall be done or proceedings taken until such order, notice or apportionment becomes operative. Before considering any appeal, the Board may require the appellant to deposit such sum to cover the costs of the appeal as they may state in their rules relating to appeals.¹

As to Trusts for Housing purposes—

If it appears to the Board that legal proceedings are desirable in any case dealing with property required to be applied under any trusts for the provision of workmen's dwellings, or that the expediting of such legal proceedings is desirable, the Board may certify the case to the Attorney-General, who, if he thinks fit, must institute or intervene in any legal proceedings in such manner as he thinks proper.

¹ 1909, s. 39. The Rules made by the Board are reprinted on page 281.

The court or body who are responsible for making a scheme with reference to property required to be applied under any trusts for the provision of workmen's dwellings, before preparing any scheme, must first communicate with the Board and receive and consider any recommendations made by them.¹

As to payment of Purchase Money or Compensation—

Any purchase money or compensation, payable under the Housing Acts by a Local Authority regarding any lands, estate, or interest of another Local Authority which, but for this provision, would be paid into Court as provided under the Lands Clauses Acts or by Paragraph 20 of Schedule 2 of the 1890 Act,² may, if the Board consent, instead of being paid into Court, be paid and applied as the Board determine, and their decision is to be final.³

As to prescribing forms and dispensing with advertisements, etc.,

The Board may—

- (a) by order prescribe the form of any notice, advertisement, or other document, and such forms, or similar forms, must be used in all cases to which those forms are applicable ;
- (b) dispense with the publication of advertisements, or the service of notices required to be published or served by a Local Authority if the Board are satisfied that there is sufficient cause to do so ;
- (c) give such dispensation either before or after the time at which the advertisement or notice is required to be published or served, and either uncondi-

¹ 1909, s. 9.

² See page 259.

³ 1909, s. 5.

tionally or under such conditions as they may think fit, due care being taken to prevent the interests of any person being prejudiced by the dispensation.¹

Board may grant Order sanctioning joint action by Local Authorities—

Upon the application of one of the Local Authorities concerned the Board may, if they think it expedient, make an order sanctioning the joint action of any Local Authorities for any purposes of the Housing Acts, and any provisions so made will have the same effect as if they were contained in a Provisional Order made under Section 279 of the Public Health Act, 1875, for the formation of a united district.²

As to revoking unreasonable bye-laws—

If the Board are satisfied by a local inquiry, or otherwise, that the erection of houses for the working classes within any borough, urban or rural district is unreasonably impeded in consequence of any bye-laws with respect to new streets and buildings, they may require the Local Authority to revoke such bye-laws, or make such new bye-laws as will, in the opinion of the Board, remove the impediment.

In default the Board may, within three months after such requisition, themselves substitute such new bye-laws as they consider necessary to remove the impediment, and such bye-laws are to take effect as if they had been made by the Local Authority and confirmed by the Board.³

¹ 1909, s. 41.

² 1909, s. 38.

³ 1909, s. 44.

Powers of Secretary of State transferred to Local Government Board—

Under the Act of 1903¹ it was enacted that his Majesty could, by Order in Council, assign to the Local Government Board any powers and duties of the Secretary of State under the Housing Acts. Subsequently, by an Order in Council, dated February 27, 1905, the whole of such powers and duties were transferred to the Local Government Board.

(2) AS TO LOCAL AUTHORITIES.

As to Appointment of Committees—

A Local Authority may form a committee out of their own number to deal with matters under the Housing Acts, but such committee is not allowed to borrow money, make any rate, or enter into any contract, and is subject to any regulations and restrictions imposed by the authority that formed it.²

Restriction on Voting—

A member of a Local Authority or county council, or any committee of either, must not vote upon any resolution or question arising out of Parts I., II. or III. of the principal Act if it relates to any dwelling house, building or land in which he is beneficially interested. Should any person do so he becomes liable, on summary conviction, to a fine not exceeding £50 for each offence, but his giving the vote will not invalidate any resolution or proceeding of the Local Authority or county council.³

¹ 1903, s. 2. The provisions of the Board of Agriculture Act, 1889, s. 11, will, with the necessary modifications, apply with regard to these transferred powers and duties.

² 1890, s. 81.

³ 1890, s. 88.

As to Orders and Notices—

Any order in writing made by a Local Authority must be under their seal and authenticated by the signature of their clerk or his lawful deputy. Any notice, demand, or other written document proceeding from a Local Authority under the principal Act must be signed by their clerk or his lawful deputy.¹

As to Donations for Housing Purposes—

A Local Authority may accept a donation of land or money or other property for the purposes of the Housing Acts, and it is not necessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888.²

As to Power of Entry on Premises—

A Local Authority has the same power of entry for the purposes of survey, valuation and examination as the Local Government Board.³

As to Sites of Ancient Monuments, etc.—

Nothing in the Housing Acts authorises the acquisition of any land which is the site of an ancient monument or other object of archæological interest.⁴

As to Bye-laws relating to Houses for Working Classes—

Any Local Authority, when empowered by the Local Government Board, may make bye-laws relating to lodging houses,⁵ and in the case of any houses intended for the working classes such powers extend to the making and enforcing of bye-laws, imposing any duty (being a duty which may be imposed by the bye-laws and which involves

¹ 1890, s. 86.

² 1909, s. 8.

³ 1909, s. 36. See page 81.

⁴ 1909, s. 45.

⁵ Public Health Act, 1875, s. 90, and Public Health (London) Act, 1891, s. 94.

the execution of work) upon the owner¹ within the meaning of the Acts mentioned in footnote 5 on the preceding page, in addition to or in substitution for any other person having an interest in the premises, and setting out the circumstances and conditions to which such duty is to be discharged.

The owner or other person may, in order to discharge such duty, at all reasonable times enter upon any part of the premises, and Section 51 of the principal Act² applies as if that section, instead of referring to the provisions of Part II., referred to the provisions of such bye-laws, and as if the person on whom such duty is imposed were the owner and any inmate of the premises were the occupier of a dwelling house.

Where the owner or other person has failed to carry out any work under the bye-laws the Local or Sanitary Authority may, after giving him not less than twenty-one days' notice in writing, carry out the work themselves, and for that purpose the provisions of the Act of 1909, Section 15 (5) (relating to the execution of works and recovery of expenses by the Local Authority) will apply as if the owner or other person were the landlord, and with such other adaptations as may be necessary.³

As to Accounts and Audit—

Separate accounts must be kept by the Local Authority and their officers of their receipts and expenditure under each Part of the principal Act, and they must be audited in a similar manner and with a similar power to the officer auditing the same, and with the like incidents and consequences, as the accounts of the Local Authority are for the time being required to be audited by law.⁴

¹ Defined in the Acts mentioned in Note 3 above as "the person for the time being receiving the rack rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such lands or premises were let at a rack rent."

² See page 61.

³ 1909, s. 16.

⁴ 1890, s. 80.

Compulsory re-housing apart from Housing Acts—

Where any authority, company or person acquire any land under the powers given after August 14, 1903,

(a) compulsorily or by agreement, by any local Act or Provisional Order, or Order having the effect of an Act, or

(b) compulsorily under any general Act (other than the Housing Acts),

the provisions mentioned in the Schedule to the Act of 1903¹ will apply as to providing dwelling accommodation for persons of the working class.²

Sale and disposal of dwellings.

A Local Authority is not obliged to sell and dispose of any lands or dwellings acquired or constructed by them for any of the purposes of the Housing Acts, notwithstanding any provision contained in the principal Act.³

Application of purchase money.

Where a Local Authority sell any land acquired by them for any purposes of the Housing Acts, the proceeds of the sale must be applied for any purpose, including repayment of borrowed money for which capital money may be applied and which is approved by the Local Government Board.⁴

(3) EXEMPTION FROM LAND TAX AND POOR RATE.

A Local Authority who have acquired land under the Housing Acts are not liable to make good any deficiency in the land tax and poor rate by reason of the land being so taken.⁵

(4) PUBLICATION OF NOTICES IN THE "LONDON GAZETTE."

Instead of publishing any scheme or order in the "London Gazette," as required under the Housing Acts, it is sufficient to insert a notice giving short

¹ Reprinted on page 276.

² 1903, s. 3.

³ 1909, s. 40.

⁴ 1890, s. 82.

⁵ 1909, s. 34. See page 10 (28).

particulars of the scheme, order, or draft stating where copies can be inspected or obtained, in two local newspapers circulating in the area affected by the scheme, or in such other manner as the Local Government Board determine.¹

(5) COMMONS AND OPEN SPACES.²

Any scheme or order under the Housing Acts which authorises the acquisition or appropriation of any land forming part of a common, open space, or allotment³ (so far as it relates to such land), is to be provisional only, until it is confirmed by Parliament. This provision, however, does not operate where the scheme or order provides for giving in exchange other land not being less in area, and where the Local Government Board, after consultation with the Board of Agriculture and Fisheries, certify that the same is equally advantageous to the persons (if any) who are entitled to commonable or other rights, as well as to the public.⁴ Before giving their certificate the Board must give public notice of the proposed exchange, and give opportunities to anyone interested to make representations and objections, and if necessary hold a local inquiry on the subject.⁵

In any scheme or order authorising the exchange provision must be made for—

- (a) vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts and incidents as attached to the common or open space, and—

¹ 1909, s. 42.

² For application to the Town Planning Part of the Act see page 133.

³ These expressions are defined in the Act as follows:—

"*Common*" includes any land subject to be enclosed under the Inclosure Acts 1845 and 1882, and any town or village green.

"*Open space*" means any land laid out as a public garden or used for the purposes of public recreation and any disused burial ground.

"*Allotment*" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act. 1909, s. 73 (4).

⁴ 1909, s. 73 (1).

⁵ 1909, s. 73 (2).

- (b) discharging the part of the common, open space or allotment acquired or appropriated from all rights, trusts and incidents to which it was previously subject.¹

LAND IN THE NEIGHBOURHOOD OF ROYAL PALACES AND PARKS.²

Where any land proposed to be included in any scheme or order under the Housing Acts, or any land proposed to be acquired under those Acts is situate within a certain distance (to be prescribed by the Board) from any of the royal palaces or parks, the Local Authority must, before preparing the scheme or order, communicate with the Commissioner of Works, and the Board are to consider any recommendations received from the Commissioners in regard to the proposal before confirming the scheme or order, or authorising the acquisition of the land or the raising of a loan for such purpose.³

(6) AMENDMENT OF SETTLED LAND ACT, 1882, FOR HOUSING PURPOSES.

- (a) Any sale, exchange or lease of land made under the above Act, for the purpose of erecting dwellings for the working classes on settled land, may be made for such price consideration or rent as, taking into account the said purpose and all circumstances of the case, is the best that can be reasonably obtained, in spite of the fact that better terms might have been obtained if the land were disposed of for other purposes.⁴

¹ 1909, s. 73 (3).

² For application to the Town Planning Part of the Act see page 133

³ 1909, s. 74.

⁴ 1909, s. 74 (1).

- (b) Capital money may also be spent for providing¹ dwellings for the working classes, either by means of building new buildings or by means of the reconstruction, enlargement or improvement of existing buildings, so as to make them available for the purpose, if the provision of such dwellings is not, in the opinion of the court, injurious to the estate, or is agreed to by the tenant for life and the trustees of the settlement.²
- (c) Any corporate body holding land have the same powers to sell, exchange or lease the land for the erection of dwellings for the working classes as under (a) mentioned above.³

Powers of Tenant for Life—

- (d) A tenant for life has powers whereby he may, at his own expense, provide dwellings available for the working classes on any settled land, and such provision shall not be deemed an injury to any interest in the reversion or remainder in that land, provided that such powers shall not be exercised by him without the previous approval in writing of the trustees of the settlement.⁴

(7) SERVICE OF NOTICE, ETC., ON THE LOCAL AUTHORITY.

Any notice, summons, writ or other proceeding at law or otherwise required to be served on a Local Authority may be served—

¹ In addition to the improvements set out in Section 2 and referred to in Section 30 of the Settled Land Act, 1882.

² 1909, s. 7 (1).

³ 1890, s. 74 (2).

⁴ 1909, s. 7 (2).

- (a) by delivering the same to the clerk of the Local Authority or some person employed in his office¹;
- (b) by addressing the document to the Local Authority or their clerk at their office by post in a registered letter.²

(8) PENALTY FOR OBSTRUCTING THE EXECUTION
OF THE ACT.

Any person who obstructs the medical officer of health, or any officer of the Local Authority or of the confirming authority, or any person authorised to enter dwelling houses, premises or buildings in carrying out anything required to be done, is liable on summary conviction to a fine not exceeding twenty pounds.³

(9) OFFENCES UNDER THE HOUSING ACTS

which are punishable on summary conviction may be prosecuted and fines recovered as provided by the Summary Jurisdiction Acts.⁴

(10) LOANS BY PUBLIC WORKS LOAN
COMMISSIONERS.

Where a loan is made to a Local Authority for any purposes of the Housing Acts—

- (a) the loan is to be made at the minimum rate allowed for the time being for loans out of the Local Loans Fund;
- (b) the period for repayment is not to exceed eighty years, but the Local Government Board may recommend the Commissioners to prescribe some shorter period.

¹ 1890, s. 87.

² 1903, s. 13 (2).

³ 1890, s. 89.

⁴ 1890, s. 90.

- (c) As between loans for different periods the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.¹

(II) POWERS UNDER THE ACTS TO BE CUMULATIVE.

All powers given by the Housing Acts are in addition to any other powers conferred by Act of Parliament, law or custom, and the latter powers may be exercised as if the Housing Acts had not been passed, and the passing of these Acts does not exempt any person from any penalty to which he would have been subject if they had not been passed.

The existence of a local Act relating to a place within the jurisdiction of a Local Authority does not exempt them from carrying out any duty or obligation attaching to these Acts.²

¹ 1909, s. 3.

² 1890, s. 91.

CHAPTER 6.

APPLICATION OF ACTS TO SCOTLAND.

THE Housing Acts which relate to Scotland are those of 1890, 1894, 1896, 1900, 1903 and 1909.

Many of the amendments made are, either in whole or part, those which are necessary to apply the Housing Acts to Scotland, and the following brief summary of the chief provisions will be sufficient :—

“ *The Local Government Board for Scotland* ” is to be substituted (unless otherwise provided) for—

- (a) the Local Government Board,
- (b) County Council in Part III. of the principal Act as amended, and in Section 5 of the Housing of the Working Classes Act, 1900.¹

“ *Public Health Acts* ” mean the Public Health (Scotland) Act, 1897, and any amending Act. References to the Public Health Act, 1875, are (unless the context otherwise requires) to be construed as references to the Public Health (Scotland) Act, 1897, a reference to an order under Section 83 of the Public Health (Scotland) Act, 1897, is to be substituted for a reference to a Provisional Order under Section 279 of the Public Health Act, 1875; and a reference to Section 72 of the Public Health (Scotland) Act, 1897, is to be substituted for a reference to Section 90 of the Public Health Act, 1875.²

¹ 1909, s. 53 (1).

² 1909, s. 53 (3).

“*Nuisances.*”—The Acts relating to nuisances mean as respects any place the Public Health (Scotland) Act, 1897, and the Local Government (Scotland) Act, 1889, and amending Acts, and any local Act which contains any provisions with respect to nuisances in that place.¹

“*Local Authority*” is to be the same as that mentioned in the Public Health (Scotland) Act, 1897.²

“*Urban Sanitary Authority*” and “*Rural Sanitary Authority*” or “*Rural District Council*” mean respectively the Local Authority (for the purposes of the Public Health (Scotland) Act, 1897) of a burgh and of a district not being a burgh, and the expressions “urban district” and “rural district” are to be construed accordingly.³

“*Local Rate*” is to be the public health general assessment, provided that such local rate is not to be taken into calculation as to the statutory limit of the public health general assessment. A Local Authority (not being a town council) may, where authorised by the Board, assess and levy a local rate upon all lands and heritages within one or more of the parishes or special districts comprised in their district, to the exclusion of other parishes or special districts within the district.⁴

“*Contracts for Letting.*”—Section 14 of the Act of 1909⁵ applies, except that the limit of rent is sixteen pounds.⁶ Section 12 of the Act of 1903⁷ applies, except that the date is 3rd December, 1909, instead of 14th August, 1903. The Schedule to the 1903 Act applies, with the modifications mentioned on page 279.⁸ Section 15 applies, with the substitution

¹ 1909, s. 53 (8).

² 1909, s. 53 (5).

³ 1909, s. 53 (7).

⁴ 1909, s. 53 (5).

⁵ See page 105.

⁶ 1909, s. 53 (15).

⁷ See page 104.

⁸ 1909, s. 53 (10).

(except as to the making of or consenting to regulations) of the Sheriff for the Local Government Board and the Court of Session for the High Court.¹

"Closing and demolition" orders.—Sections 17 and 18 of the 1909 Act apply (except as regards the making of or consenting to regulations), with the substitution of the Sheriff and the Court of Session for the Local Government Board and High Court. If the Local Authority neglects its duties under Sections 17 and 18 of the 1909 Act the provisions of the Public Health (Scotland) Act, 1897, Section 146, will apply as if such duties were imposed by that Act.²

Appeals to the Local Government Board cannot be made under Sections 15, 17, 18 and 39 of the 1909 Act. Any appeal must be directed to the sheriff.

The power of the Local Government Board to make Rules under Section 39 of the 1909 Act is to be exercised by the Court of Session by Act of sederunt.³

Appeals from an order of a Local Authority under Part II. of the principal Act are to the sheriff, and the same procedure applies as on an appeal from the sheriff substitute to the sheriff, but with the same provisos as apply to the appeal in England from the order of the Local Authority to a Court of Quarter Sessions.⁴

Purchase of Lands.—Section 57 of the principal Act, which refers to the Public Health Act, 1875, is to be construed as a reference to the Public Health (Scotland) Act, 1897, but for the purposes of Part III. of the principal Act the procedure for compulsory purchase mentioned in Section 2 of the 1909 Act is to be substituted for that mentioned in Section 145 of the Public Health (Scotland) Act, 1897.⁵

¹ 1909, s. 53 (14).

² *Ibid.*

³ *Ibid.*

⁴ 1890, s. 95 (3).

⁵ 1909, s. 53 (4).

Revesting of Lands.—Lands previously acquired by a Local Authority under the Artizans and Labourers Dwellings Improvement (Scotland) Acts, 1875 to 1880, and still held by and vested in them, are deemed to be held by and vested in them for the purposes of Part I. and relative provisions of the 1890 Act, without the necessity of expeding or recording any notarial or other instrument.¹

Borrowing Powers.—A Local Authority, with the consent of the Board, may borrow money for the purposes authorised in the Housing Acts, on the security of the local rate in a similar manner to that by which they may borrow for the provision of permanent hospitals under the Public Health (Scotland) Act, 1897, provided that all money so borrowed must, notwithstanding the provisions of Section 141 of that Act, be repaid with interest within a period of 80 years, or less, as the Board may determine in each case.²

Local Inquiries.—For this purpose Sections 7, 8, 9 and 10 of the Public Health (Scotland) Act, 1897, will apply, except where inconsistent with Section 85 (1) of the principal Act (relating to inquiries by the Local Government Board).³

Lands Clauses Consolidation (Scotland) Act, 1845, is to be read in place of the Lands Clauses Consolidation Act, 1845, and a reference to any sections in the latter are to be construed as a reference to the corresponding sections in the former, and when any compensation claimed does not exceed £50 the dispute is to be settled by the sheriff, instead of by two justices.⁴

Private Improvement Expenses.—The provisions as to these, and the means for defraying the same, do not apply to Scotland, and the Local Authority is

¹ 1896, s. 2.

² 1909, s. 53 (6).

³ 1909, s. 53 (9).

⁴ 1890, s. 94 (1) (2).

entitled to recover in a summary manner the amount apportioned to any building in respect of its increase in value owing to the demolition of any obstructive building from the owner or occupier thereof, according to their respective interests in such increase of value.¹

A Charging Order under Part II. of the principal Act must be recorded in the appropriate register of sasines.²

The Lord Advocate is to be substituted for the Attorney-General.³

Superior Court means, in Scotland, the Court of Session. Where any order, certificate, or other act under the principal Act may be made a rule of a superior court, the Court of Session in Scotland may, on the application of the Lord Advocate, on behalf of the confirming authority, or on the application of any person interested, interpose their authority to any such order, certificate or act, and grant decree conform thereto upon which execution and diligence may proceed in common form.⁴

Offences punishable on summary conviction may be prosecuted and fines recovered before the sheriff, or two justices, or in burghs before the magistrates in manner provided by the Summary Jurisdiction (Scotland) Acts, and all necessary jurisdiction is hereby conferred on such sheriff or two justices or any two magistrates of a burgh.⁵

Complaint to Local Government Board on default of Local Authority.—Where a complaint is made to the Board—

(a) as to the district of a Local Authority not being a town council, by the county

¹ 1890, s. 94 (3) (c).

² 1890, s. 95 (1).

³ 1909, s. 53 (2).

⁴ 1890, s. 95 (2).

⁵ 1890, s. 95 (4).

council, or by the parish council or landward committee of any parish comprised in the district, or by any four inhabitant householders of the district ; or

- (b) as to any other district by any four inhabitant householders of the district

that the Local Authority have failed to exercise their powers under Part II. or Part III. of the principal Act in cases where those powers ought to have been exercised, the Board may hold a public local inquiry, and if after such inquiry the Board are satisfied that there has been such a failure on the part of the Local Authority, the Board may, with the approval of the Lord Advocate, apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are authorised and directed to do herein, and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary as appears to be just.¹

Powers of Local Government Board on default of Local Authority.—Where it appears to the Board that a Local Authority have failed

- (a) to carry out an Improvement Scheme under Part I. of the principal Act ;
- (b) to make, or give effect to, any order as to—
- (i.) an obstructive building, or
 - (ii.) any Reconstruction Scheme under Part II., or
- (c) to make an inspection of their district as required by the 1909 Act,

the Board may apply by summary petition to either Division of the Court of Session, or during vacation

¹ 1909, s. 53 (11). In Scotland this section supersedes 1909, s. 10. See pages 57 and 72.

or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are authorised and directed as in the preceding paragraph.¹

Provisions as to superior of lands under Part II.—The superior of any lands and heritages may give notice of his right of superiority to the Local Authority, who must give notice to such superior of any proceedings proposed to be taken by them under Part II. in relation to such lands and heritages.

The superior may make an application to the sheriff to the effect that default is being made in the execution of any works required to be executed on such lands and heritages as to which a closing order has been made, or in the demolition of a building, or in claiming to retain the site under Part II., and if it appears that the interests of the applicant will be prejudiced by such default, the sheriff may make an order giving the applicant power to forthwith enter on the lands and heritages, and within a limited time to carry out the necessary works, demolish the building, or claim to retain the site as the case may be. The sheriff may, by order, enlarge the time within which a claim may be made to retain the site of a building. Before an order is made under this heading notice of the application must be given to the Local Authority.²

“Special Expenses.”—Any reference to special expenses does not apply.³

“Quit Rents” and other charges incident to tenure and *“Tithe Commutation Rent-charge”* are to be read as applicable to feu duties, casualties and teinds.⁴

¹ 1909, s. 53 (12). In Scotland this section supersedes 1909, s. 11.

² 1890, s. 97.

³ 1909, s. 53 (16).

⁴ 1890, s. 96 (13).

Orders made by a Local Authority who have not a Seal.—An order in writing made by the above must be authenticated by the signature of any two or more members of the Local Authority and of their clerk or his lawful deputy.¹

Powers of County Councils under Part II. do not apply to Scotland.²

Re-housing Obligations.—Section 3 of the 1903 Act applies, except that the date must be taken as 3rd December, 1909, instead of 14th August, 1903, and the Schedule to the 1903 Act also applies as modified by the third Schedule to the Act of 1909.³

Public Health and Housing Committees.—The provisions of the Act of 1909 with respect to these do not apply.⁴

The "Edinburgh Gazette" is to be substituted for the "London Gazette."⁵

¹ 1890, s. 96 (15).

² 1890, s. 96 (16).

³ 1909, s. 53 (10). For Schedule as modified, see page 276.

⁴ 1909, s. 71 (2).

⁵ 1890, s. 96 (3).

THE FOLLOWING PROVISIONS APPLY WITH REFERENCE TO SCOTLAND :—

	THE EXPRESSION	MEANS
Mentioned in the Act of 1890.	" Medical Officer of Health,"	Medical officer.
	" Person entitled to the first estate of freehold in,"	Owner of.
	" Court of Quarter Sessions,"	The Sheriff.
	" Contributory place,"	A parish.
	" Court of Summary Jurisdiction,"	The Sheriff, or any two Justices of the Peace sitting in open Court, or any Magistrate or Magistrates within the meaning of the Summary Jurisdiction Acts.
	" Executors, administrators, or assigns,"	Heirs, executors, or assignees.
Mentioned in the Act of 1909.	" Mortgage,"	Bond and disposition in security.
	" Overseers,"	Parish Council.
	" Paid into Court,"	Paid into bank.
	" As civil debt in manner provided by the Summary Jurisdiction Acts,"	In a summary manner.

The sections in the following Acts do not apply to Scotland :—

Act of 1903, Sections 1, 4 (1) and 10.¹

Act of 1909, Sections 10,² 11,³ 12 and 13.⁴

¹ 1909, s. 53 (10).

² 1909, s. 53 (11).

³ 1909, s. 53 (12).

⁴ 1909, s. 53 (13).

CHAPTER 7.

HOW THE ACT OF 1909 AFFECTS PROPERTY OWNERS.

THERE are many clauses in the above Act which directly affect property owners, and the most important of these are mentioned below.

(1) INSPECTION OF PREMISES.

Local Authorities under previous Acts had power to inspect premises, and Section 17 (1)¹ re-enacts and emphasises the existing law. The Board, however, may now prescribe regulations as to the Local Authority keeping records of the inspections made from time to time in the district,² as a result of which there will undoubtedly be a more careful and regular inspection. For this purpose increased powers of entry³ are given to the Local Authority.

(2) IMPLIED CONDITIONS ON LETTING HOUSES TO THE WORKING CLASSES.

As the clauses in the 1909 Act constitute an extension of a principle laid down in the 1890 Act, it is desirable to mention the implied conditions prior to the passing of the former.

¹ See page 37.

² 1909, s. 17 (1)

³ 1909, s. 36. See page 81.

- (a) *Between 14th August, 1885, and 14th August, 1903.*—In any contract made for letting a house, or part of a house, to any persons of the working classes, there was an implied condition that the house was, at the commencement of the tenancy, in all respects reasonably fit for human habitation. The expression “letting for habitation by persons of the working classes” meant the letting for habitation of a house, or part of a house, at a rent not exceeding, in England, the sum named as the limit for the composition of rates by Section 3 of the Poor Rate Assessment and Collection Act, 1869.¹

The rents in such cases were as follows:—

In London	...	...	...	£20
In any parish wholly or partly within the Borough of Liverpool			...	£13
In any parish wholly or partly within the City of Manchester or Bir- mingham	...	...	...	£10
If situated elsewhere	...	...	...	£8 ²

- (b) *Between 14th August, 1903, and 3rd December, 1909.*—Owing to the fact that landlords frequently “contracted out” of this liability the 1903 Act extended the principle to the effect that any contract made after August 14th, 1903, was to take effect notwithstanding any agreement to the contrary, and any such agreement made after that date was void.³

¹ 1890, s. 75.

² Poor Rate Assessment and Collection Act, 1869, s. 3.

³ 1903, s. 12.

(c) *After 3rd December, 1909.*—The principle laid down in the preceding Acts has been still further extended by the 1909 Act, under which the limit of rent has been raised as follows:—In the case of a house

In the Administrative County of
London £40¹

In a borough or urban district with a
population according to the last
census for the time being of
50,000 or upwards £26

Any house situate elsewhere £16

In such cases the implied condition as to the house being at the commencement of the holding in all respects reasonably fit for human habitation holds good, with the important addition that there is also implied an undertaking that the house will, *during the holding, be kept by the landlord*² in all respects reasonably fit for human habitation.³ This condition, however, does not apply when a house or part of a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for occupation, and the lease is not determinable at the option of either party before the expiration of that term.⁴

¹ The Administrative County of London includes the boroughs of—

Battersea.	Hammersmith.	St. Marylebone.
Bermondsey.	Hampstead.	St. Pancras.
Bethnal Green.	Holborn.	Shoreditch.
Camberwell.	Islington.	Southwark.
Chelsea.	Kensington.	Stepney.
Deptford.	Lambeth.	Stoke Newington.
Finsbury.	Lewisham.	Wandsworth.
Fulham.	Paddington.	Westminster.
Greenwich.	Poplar.	Woolwich.
Hackney.		

And the City of London.

² For meaning of the expressions "House" and "Landlord" see page 107.

³ 1909, s. 15.

⁴ 1909, s. 14.

The reason given for this increase in rental value is that since 1885, when the original limit was fixed, there has been a considerable rise in the rents of working-class houses.

(3) PROVISIONS FOR ENFORCING LANDLORDS TO KEEP HOUSES IN REPAIR.

Power of
entry for
inspection

In order to carry out the preceding sections the landlord or Local Authority, or any person authorised by him or them, in writing, may, at all reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or occupier, enter any house, premises or building for the purpose of viewing the state and condition of the same.¹

Procedure
of Local
Authority
when implied
undertaking
not complied
with.

If it appears to the Local Authority within the meaning of Part II. of the principal Act² that the implied undertaking is not being complied with, they must (if a closing order³ has not been made with respect to the house) write to the landlord requesting him, within a reasonable time (not being less than twenty-one days) to carry out the necessary works specified by them in order to render the house in all respects reasonably fit for human habitation.

The landlord may then—

- (a) carry out the necessary work, or
- (b) by written notice to the Local Authority declare his intention of closing the house for human habitation, upon which a closing order shall be deemed to have become operative in regard to such house.⁴

¹ 1909, 15 (2).

² See page 5.

³ See page 37.

⁴ This could take place when the house is in such a bad state of repair that the work necessary to be done to comply with requirement of the Act would be unremunerative on account of the excessive cost.

If the landlord fails to take any action in the matter the authority may, at the expiration of the time specified in the notice to him, do the work themselves, and

Default of landlord.

- (a) recover the expenses from the landlord as a civil debt under the Summary Jurisdiction Acts, or
- (b) by order declare such expenses to be payable by annual instalments within a period not exceeding that of the interest of the landlord in the house, or in any case five years, with interest at five per cent. per annum until the whole amount is paid, and any such instalments or interest, or any part thereof, may be recovered from the landlord as a civil debt under the Summary Jurisdiction Acts.¹

A landlord may appeal against—

- (a) any notice requiring him to execute any works, As to appeal by landlord.
- (b) any demand for the recovery of expenses,
- (c) any order made with respect to the expenses

on giving notice of appeal to the Board² within twenty-one days after the notice is received, or the demand or order is made, as the case may be. No proceedings can be taken with regard to any of these while the appeal is pending.

The expression "landlord," in this connection, means any person who lets to a tenant for habitation the house under any contract referred to in Section 15 of the Act of 1909, and includes his successors in title; and the expression "house" includes part of a house.

Definition of "landlord" and "house."

¹ 1909, s. 15 (3) (4) (5).

² See page 81.

As to notices,
etc.

Sections 49 and 50 of the principal Act, as amended by Section 13 of the 1903 Act, are to apply as to service of notices and description of owner in proceedings,¹ with the substitution where required of the landlord for the owner of a dwelling house.

Any remedy as given above for non-compliance with the implied undertaking mentioned previously is in addition to, and not in derogation of, any other remedy available to the tenant against the landlord, either at common law or otherwise.²

The importance which the Local Government Board attach to this portion of the new Act is shown by the following extract from a Circular issued to the various Local Authorities dated 31st December, 1909 :—

“Section 15, which requires landlords to keep houses within the rental limits above referred to³ in all respects reasonably fit for human habitation, gives powers to the Local Authority in regard to landlords who make default in this respect, which, in the opinion of the Board, should prove of great value. The powers vested in Local Authorities of dealing with houses such as those in question have not in the past been very complete ; for it was necessary either to prove the existence of a statutory nuisance, or to show to the satisfaction of a Court of Summary Jurisdiction that the house was in a state so dangerous or injurious to health as to be unfit for human habitation.”

“The Board trust that the Council will not hesitate to use their powers under the new section.”

¹ See page 61.

² 1909, s. 15 (6) (7) (8) (9).

³ See page 105.

(4) PROHIBITION OF BACK-TO-BACK HOUSES.

Under the Model Bye-laws issued by the Local Government Board, and the bye-laws adopted by authorities based on the former, conditions are laid down as to ventilation of buildings and prescribing a certain amount of "air-space" to each house. In some parts of England, however, the bye-laws permit the erection of houses which do not possess any air space in the rear, so that a house could be erected having ventilation in the front only, the three remaining sides forming party walls of the adjoining property.

Under the 1909 Act this type of building is forbidden by Section 43 in the following terms.

Notwithstanding anything in any local Act or bye-law in force in any borough or district it shall not be lawful to erect any back-to-back houses intended to be used as dwellings for the working classes, and any such house commenced to be erected after the 3rd December, 1909, is to be deemed unfit for human habitation for the purposes of the Housing Acts. There are, however, two exceptions—

- (a) The erection or use of a house containing several tenements in which the tenements are placed back to back, where the medical officer of health for the district certifies that the tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement, or—
- (b) Houses abutting on any streets the plans whereof have been approved by the Local Authority before May 1st, 1909, in any borough or district where, on December 3, 1909, any local Act or bye-laws were in force permitting the erection of back-to-back houses.¹

¹ 1909, s. 43.

(5) PROHIBITION OF UNDERGROUND ROOMS FOR
SLEEPING PURPOSES.

A room habitually used as a sleeping place, the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, is now deemed to be a dwelling house so dangerous to health as to be unfit for human habitation if the room either—

- (a) is not on an average at least seven feet in height from floor to ceiling, or
- (b) does not comply with such regulations as the Local Authority, with the consent of the Local Government Board, may prescribe for securing the proper ventilation and lighting of such rooms, and protection against dampness, effluvia or exhalation.

If the Local Authority after being required to do so by the Board fail to make such regulations, or such regulations as the Board approve, the Board may themselves make them, and the regulations so made are to take effect as if they had been made by the Local Authority with the consent of the Board. But a closing order made in such cases does not prevent the room being used for purposes other than those of a sleeping place; and if the occupier of the room (after notice of the order has been served upon him) fails to comply with the order, an order to do so may, on summary conviction, be made against him. This section will come into operation on July 1st, 1910.

A closing order under these circumstances is not to be treated as a closing order which would in the ordinary course be followed by an order for demolition.¹

(6) EXTENSION OF POWER OF MAKING BYE-LAWS.
See page 86.

¹ 1909, s. 17 (7).

CHAPTER 8.

COUNTY MEDICAL OFFICERS, COUNTY PUBLIC HEALTH AND HOUSING COMMITTEES, &c.

PUBLIC HEALTH AND HOUSING COMMITTEES.

EVERY county council must establish a Public Health and Housing Committee.

All matters relating to the exercise and performance by the council of their powers and duties as to public health and the housing of the working classes must stand referred to this committee. The committee is not allowed to raise any rate or borrow money.

The council, before exercising the above-mentioned powers, must (unless they consider the matter is urgent) receive and consider the committee's report relating to the matter in question.

The council may delegate to the committee, with or without restrictions or conditions, any of their powers relating to public health and the housing of the working classes, but excepting, however,—

- (a) any power of resolving that the powers of a district council in default should be transferred to the county council¹;
- (b) the power of raising a rate or borrowing money.²

¹ See pages 56 and 71.

It should be noted that the duty to establish a Public Health and Housing Committee as above does not extend to the London County Council.¹

COUNTY MEDICAL OFFICERS OF HEALTH.²

Appointment.

Prior to 3rd December, 1909, any county council had power to appoint a medical officer of health,¹ but it is now compulsory upon every county council to do so.³ Such officer must not be appointed for a limited period only,⁴ and cannot be removed by the county council without the consent of the Local Government Board.⁵

Duties.

If appointed after 3rd December, 1909, he is not allowed to hold any other public appointment or engage in private practice without the express written consent of the Local Government Board.⁶ His duties will be such as may be prescribed by general order of the Local Government Board, and such other duties as may be assigned to him by the county council,⁷ but the power of county councils and district councils to make arrangements under the Local Government Act, 1888, s. 17,⁸ ceases to have effect, without prejudice to any arrangement made before 3rd December, 1909.⁹

An order of the Local Government Board as above must be communicated to the county council, and must also be laid before Parliament as soon as possible after it is made. If an address is presented

¹ 1909, s. 71.

² Local Government Act, 1888, s. 17.

³ 1909, s. 68 (1).

⁴ 1909, s. 68 (6).

⁵ 1909, s. 68 (5).

⁶ 1909, s. 68 (7).

⁷ 1909, s. 68 (2).

⁸ Under the Local Government Act, 1888, s. 17 (2 and 3) county councils and district councils had power to arrange for rendering the services of county medical officers regularly available in the district of a district council, and under such arrangement it is not necessary for the district council to appoint a separate medical officer.

⁹ 1909, s. 68 (3).

to his Majesty by either House within twenty-one days of the date on which that House sat next after the order is laid before it, praying that the order may be annulled, his Majesty in Council may annul the order, and it then becomes void, but without prejudice to the validity of anything done previously under such order.¹

For the purposes of his duties the county medical officer has the same powers of entry on premises as a district medical officer,² or where in the Administrative County of London as of a medical officer of a metropolitan borough.³

The county council may, with the sanction of the Local Government Board, make any temporary arrangement for performing all or any of the duties of the county medical officer. Anyone appointed to perform those duties or any of them, in such arrangement, will (subject to the terms of his appointment) have all the powers, duties and liabilities of the county medical officer.⁴

Apart from this provision these powers do not apply to the Administrative County of London.

DUTY OF THE CLERK AND MEDICAL OFFICER OF HEALTH TO FURNISH INFORMATION TO THE COUNTY MEDICAL OFFICER.

It is the duty of the clerk of a rural district council to forward to the county medical officer a copy of any representation, complaint or information which the district council are required to forward to the county council under Section 45 of the principal Act.⁵

¹ 1909, s. 68 (8).

² 1909, s. 68 (4).

³ 1909, s. 70.

⁴ 1909, s. 68 (6).

⁵ See page 56.

A district medical officer must give to a county medical officer any information which it is in his power to give, and which is reasonably required by such county medical officer for the purpose of his duties prescribed by the Local Government Board.

If any dispute or difference arise between the clerk or medical officer and the county medical officer the matter must be referred to and determined by the Local Government Board, whose decision is to be final and binding.

If the clerk or district medical officer fails to comply with the above provisions either of them is liable on summary conviction to a fine not exceeding £10 for each offence, but this only applies where information is laid by the county council.¹

FORMATION AND EXTENSION OF BUILDING SOCIETIES.

A county council may promote the formation or extension of societies on a co-operative basis which have for one or more of their objects the erection or improvement of dwellings for the working classes.

They may also assist such societies, and for this purpose may, with the consent of and subject to regulations made by the Local Government Board,—

- (a) make grants or advances to the society, or
- (b) guarantee advances made to the society upon such terms and conditions as to rate of interest and repayment or otherwise, and on such security as the council thinks fit.

The making of these grants or advances is a purpose for which a council may borrow, but the regulations of the Board are to provide that any such advance made on the security of any property must not exceed two-thirds of the value of that property.²

¹ 1909, s. 69.

² 1909, s. 72.

Part II.

TOWN PLANNING.

CHAPTER 9.

THE OBJECT OF A TOWN PLANNING SCHEME.

PART II. of the Housing and Town Planning, etc., Act, which came into operation on December 3rd, 1909, is devoted entirely to Town Planning,¹ and as the text of the whole Act is reprinted as an Appendix it is unnecessary to repeat the clauses here. Town Planning is, however, so novel to this country that some remarks upon the same may be of interest.

The subject naturally divides itself under two heads, namely—

- (1) The object of a Town Planning Scheme;
- (2) How it is proposed to obtain the same.

In this chapter the former only will be considered, while the latter will be dealt with in Chapter 10.

Up to comparatively recent times the growth of the towns and villages in this country was left to individual effort, with the result that the growth was

¹ The expression "town planning" as used in the Act must not be interpreted in a strict technical sense. A town planning scheme may be made to apply to a very small area, *i.e.*, to an area less than that occupied by a town, *e.g.*, estates on the borders of a town (a better term for which would be "town extension plan"); while on the other hand it takes into account many things which have little or no relation to planning as such, *e.g.*, the height and character of buildings, and may apparently deal with areas so small as to come under the heading of "site planning," as town-planning, in the strict sense of the word, could only materialise by the development of an entirely new district. So far the only example approaching this state of affairs is the Garden City of Letchworth. The majority of the garden estates scattered over England exhibit in a marked degree the idea aimed at by town planning schemes.

entirely haphazard and irregular. The absence of some controlling influence is not seriously felt while the town or village is of small size; but when a great increase in the population takes place, and the same lack of system in development is continued, the nett result is a built-up area probably forming an inharmonious jumble of crooked streets (often of narrow width), cul-de-sac roads and blocks of properties of varying kinds jostling one another without any regard to system or convenience.

An extreme example of this kind is shown in Plate 1, which represents the town of Dolgelly, in Merionethshire, in connection with which it has been said that "the town was built before streets were invented."

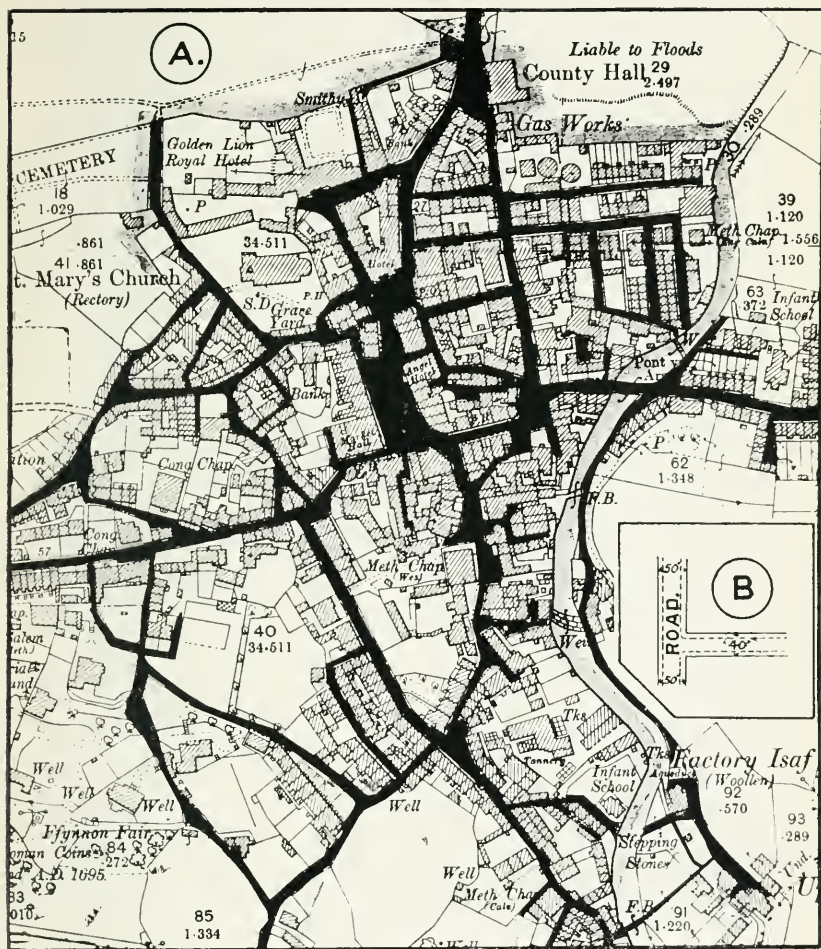
Many landowners, however, have exercised other principles and laid out their estates on more generous lines (Plate 2), but in this case an owner of a large area is better able to do this than the owner of a small estate.

Many towns in England exhibit in a marked degree the advantages obtained from a well-thought-out scheme, although in the great majority of cases this is only noticeable in certain portions of the town area, *e.g.*, in Edinburgh, Eastbourne, Bournemouth. Bath, Leamington Spa.

The inevitable question of profit has naturally governed development, and an owner was on nearly every occasion intent on getting the best financial return from his land. Groups of houses with scarcely any garden space in the rear, and the absence of any front building line, with narrow streets, was the result.

The Public Health Act, 1875, together with the adoption of bye-laws based on those issued by the Local Government Board some thirty-five years ago, created a great change in this direction.

PLATE I.
PLAN OF DOLGELLY.
Showing Irregular Development.



The Plan of this town (A) is reduced from the 25in. Ordnance Map. The streets are shown by the deep black lines to emphasise their narrowness and erratic direction. For the sake of comparison two roads, one 50 feet and one 40 feet in width, and drawn to the same scale, are shown in the inset B.

Building estate owners were thereafter compelled to lay out their streets of a certain width, the minimum amount of air-space allowable in respect of each building was definitely stated, and certain requirements were laid down as to construction and sanitary arrangements. This was an important step forward, and as a result wide streets replaced the old crooked ways, so that some convenience resulted as far as communication between various places was concerned.

Extensive areas were frequently laid out on what is now known as the "gridiron" system, a bare network of parallel roads, occasionally crossed by a road at right angles, and seldom a tree or other object to relieve the monotonous perspective (Plate 3).

The direction of the roads was still left almost entirely in the hands of private owners, and Local Authorities as a rule had no powers to alter these. In many districts cul-de-sac roads are still allowed, and Plate 4 will give some idea of what could happen in a district where there is a number of small freeholders. The plan shows an exaggerated condition of affairs, but it is based on actual examples of recent development near London.

The tendency of modern legislation has been to restrict, in some degree, schemes of development which are likely to hinder the orderly growth of a district.

Under the London Building Act, 1894, the Council have power to compel owners to lay out their streets so that ready access is given to adjoining streets, and thus some linking-up is effected,¹ while applications

¹ The London County Council have power to refuse their sanction to the formation or laying out of a street under the following condition:—"Where any street not being within the City is proposed to be formed or laid out in such manner that such street will not, at and from the time of forming and laying out the same, afford direct communication between two streets, such two streets being (where it is intended to form or lay out such street for carriage traffic) streets formed and laid out for carriage traffic." London Building Act, 1894, s. 9 (4).

for permission to form new streets with a gradient of more than one in twenty can be rejected.¹

Some corporations have acquired special powers to alter or vary the direction or position of the streets shown on plans submitted to them,² while the Local Authorities who have adopted Part II. of the Public Health Amendment Act, 1907, also have power, upon plans being deposited with them, to vary the position and level of new streets when it is considered advisable to do so.³

Under the same Act a Local Authority may also require the corner of any building, intended to be erected at the corner of two streets, to be rounded off.⁴

In the majority of cases definite widths of streets are required, which must be adhered to. In a few instances discretionary powers have been obtained to vary the width of streets according to the requirements of the district,⁵ while in many places authorities have powers to prescribe the building line in any street.

These examples of legislation are mentioned in order to show that the tendency has existed for some time to obtain a more orderly and convenient arrangement as to the lay-out of building estates,

¹ London Building Act, 1894, s. 9 (6).

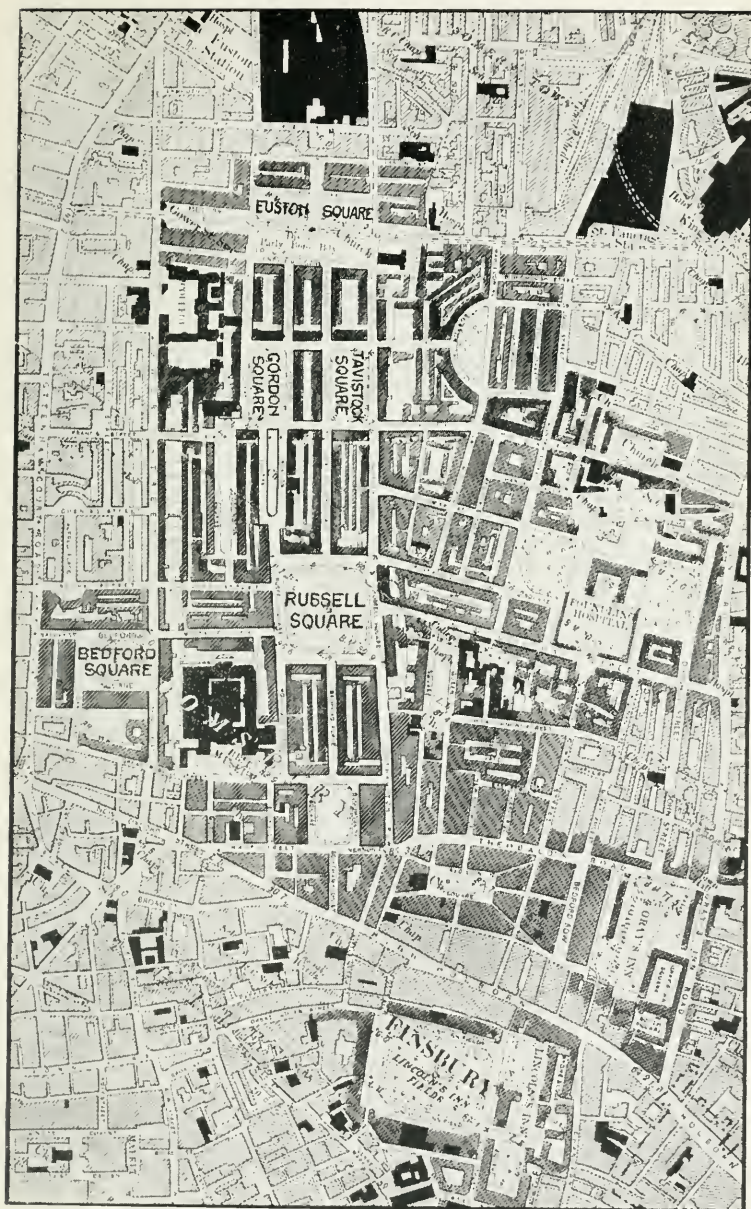
² *e.g.*, Nottingham (Nottingham Improvement Act, 1874), Leeds (Leeds Corporation (Consolidation) Act, 1905), Bournemouth, Bradford, Brighton, Leicester (Leicester Improvement Act, 1881), Barrow-in-Furness, Huddersfield, Liverpool, etc.

³ "The Local Authority may, on the deposit of a plan and sections of a new street in pursuance of a bye-law in force in the district, by order vary the intended position, direction or termination, or level of the new street so far as is necessary for the purpose of securing more direct, easier, or more convenient means of communication with any other street or intended street or for the purpose of securing an adequate opening at either end of the new street, or of securing compliance with any enactment or bye-law in force in the district for the regulation of streets and buildings." S. 17 (1).

⁴ "The Local Authority may require the corner of any building intended to be erected at the corner of two streets to be rounded off or splayed off to the height of the first storey or to the full height of the building, and to such extent otherwise as they may determine and for any loss which may be sustained through the exercise of the powers by this section conferred upon the Local Authority they shall pay compensation." Public Health Acts Amendment Act, 1907, s. 22.

⁵ *e.g.*, in Nottingham, Birmingham, Leicester and Bolton.

PLATE 2.
PLAN OF BLOOMSBURY, W.C.
Referred to on page 116.



The above Plan, slightly reduced from the 6in. Ordnance Map, shows the lay-out of a portion of Central London. The chief characteristics are the regular planning of the streets, with many open spaces, of which Russell Square forms a prominent feature.

To face page 118.

and in this sense may be looked upon as containing the germ of the town-planning idea. The nett result has been to limit the powers of an owner in connection with the development of his own land.

It is evident, however, that any number of estates can be developed, each of which, it may be assumed, embodies a well-thought-out scheme, and yet when the plan of the district is viewed as a whole there is no connection between one estate and another; the roads may be planned without any regard to the convenience of the district, and it may be that one estate is being developed for the erection of high-class residences, while the land immediately adjoining is in the market as factory sites. This is an admitted evil, and the modern conditions requiring quick transit, easy access from one point to another, and general convenience (apart from other considerations), together with a greater familiarity as to town planning in other countries, has created an awakened interest in the attempt to solve the problem.

The public interest and support given to what is popularly known as "The Garden City movement" shows that there was, and is, some dissatisfaction with the lines upon which private building estates have been developed, and the enormous growth of co-partnership societies, whose business it is to purchase estates and lay out the same on more generous lines than is usually done by private owners, have all had their effect in ventilating the question of town planning, and have caused a searching inquiry to be made into subjects which, at first sight, appear remotely connected with building estates.

The difficulty of finding a remedy for the old state of things is increased by the fact that in this country towns have been slowly evolved through the centuries and initial mistakes in planning have been perpetuated and exaggerated.

An effort to prevent the recurrence of some of these defects is contained in the Town Planning part of the recent Act.¹

The subject, however, is so novel in this country that the Act must be looked upon as somewhat tentative, which may explain in some way its ambiguity and looseness of expression.

A town-planning scheme is defined in the Act as one which has "the general object of securing proper sanitary conditions, amenity and convenience in connexion with the laying out and use of the land and of any neighbouring lands."²

The expressions "proper sanitary conditions," "amenity" and "convenience" are not defined in the Act, and the interpretation which is to be given to the same rests with the Local Government Board.

(I) **Proper Sanitary conditions.**—It might be supposed that these would be complied with when the Acts relating to Public Health and the bye-laws and regulations of the Local Authorities were satisfied.

This, however, would appear too narrow an interpretation to place upon the words. It may be assumed that in this connection the expression is meant to include any matter which can legitimately be considered as affecting the health of the inhabitants of a house or district.

Under the Model Bye-laws about fifty-two houses can be erected to the acre³ and yet comply with the requirements of public health as stated in the same.

¹ The text of the Act is reprinted in full as an appendix. See page 202.

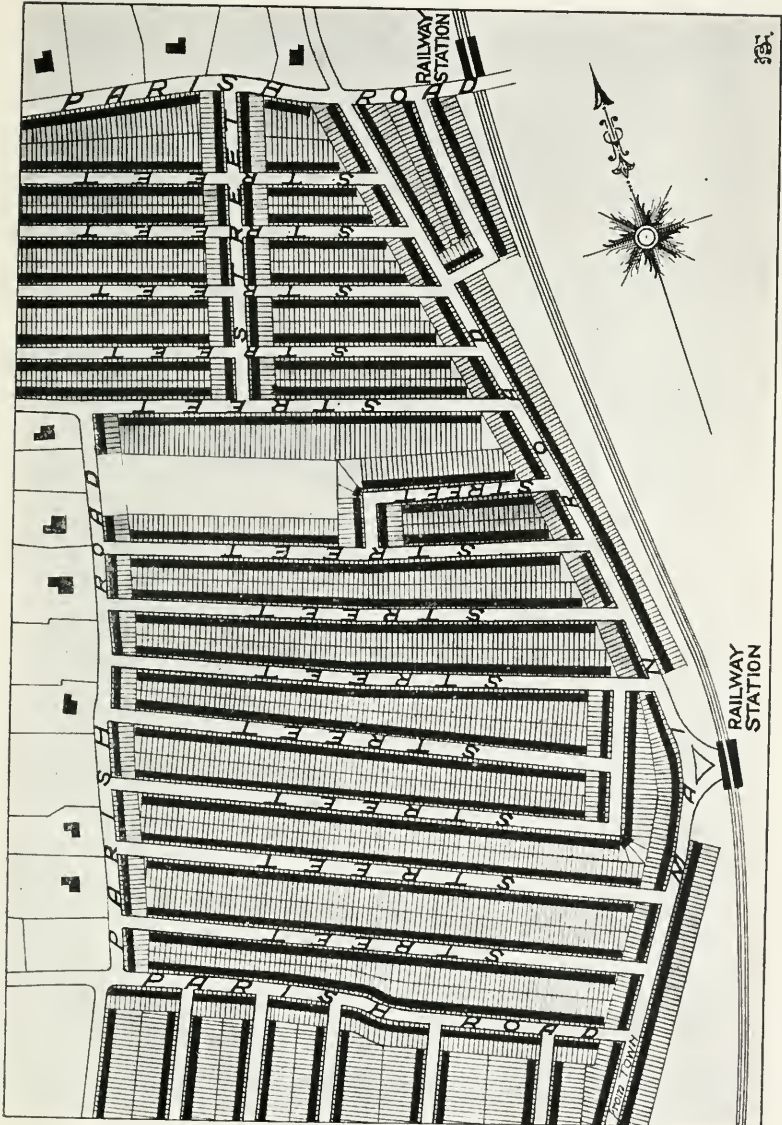
² S. 54 (1).

³ It has been shown by Mr. J. S. Nettlefold, in his work on "Practical Housing," that under the Birmingham bye-laws no less than fifty-six houses could be erected on an acre.

PLATE 3.

Plan showing "grid-iron" development of a district with its attendant monotony and general lack of convenience.

Referred to on Page 117.



To face page 120.

In the ordinary way the excessive cramping of a large number of dwellings upon a small area is generally unremunerative in the long run, but the danger is present, and a liberal interpretation of the Act would prevent a repetition of this.

Sunlight, fresh air and ventilation are largely conducive to a healthy existence, and any circumstance or condition which goes towards providing these may be covered by the term "proper sanitary conditions."

(2) **Amenity** is an elastic term, and is capable of an even broader interpretation than the foregoing. It may be defined as "pleasantness," and the amenity of a district may include anything which makes, or tends to make, the same pleasant or agreeable to live in. If this interpretation be correct, it is difficult to see what factors in the development of a district are excluded. All or any of the following might be brought under consideration in dealing with a town-planning scheme:—

(a) The preservation of objects of historical interest or natural beauty.¹

Under a town-planning scheme many of the historical mansions which have recently been demolished in suburban London could have been saved and maintained for the enjoyment and instruction of the inhabitants of the district. In a similar way it would be possible to prevent a beautiful view from being spoilt by building operations.

(b) The planting and maintaining of trees along the proposed new roads and the provision of wide grass "plats" between footways and carriageways.

(c) The provision of park areas, recreation grounds and open spaces for the use of the public.

¹ Mentioned in the Fourth Schedule to the Act as one of the matters to be dealt with by general provisions prescribed by the Local Government Board. These have not yet been issued. See Section 64, page 241.

(d) The exercise of careful supervision as to the height and character of buildings.¹

This provision is presumably included in the Act in order to obtain some general scheme in the appearance of a town—*i.e.*, unity of design. Many of the Continental towns have reached a high degree of perfection in this way, and it may be that something approaching beauty will be attained in English towns by exercising careful control in this direction.

(e) The restriction of the number of buildings which may be erected on each acre.²

It must be remembered that under the existing bye-laws the number of buildings is already restricted. The intention is probably to prevent the erection of, say, workmen's cottages on land adjoining an estate now being developed for high-class residences. By this means an owner who is desirous of developing his estate in the best possible way under conditions suitable to the district will be protected from operations on an adjoining estate which might prove detrimental or even ruinous to his enterprise.

The matter is undoubtedly difficult to arrange, but some provision will doubtless be made to meet the contingency.

(f) The prohibition of long, straight streets when the same are not likely to be used for main traffic routes.

(3) **Convenience.**—The convenience of a district, apart from the position of a railway station or tram route, is mostly concerned with the position, width and gradient of the roads comprised in its area.

¹ Mentioned in the Fifth Schedule to the Act. See page 256.

² *Ibid.* See page 256.

(a) *Position*.—In many suburban districts near London the public highways follow very circuitous routes, with awkward curves and dangerous corners. In such cases the construction of a new road, leaving the old road at one point and joining it again at another further on, would materially lessen the distance without any increase in the gradient.

The construction of new main roads is also necessary in some districts, and the provision of these may be included in a town-planning scheme.

(b) *Width*.—The inelastic and stringent bye-laws now in force have been the cause of a great deal of dissatisfaction among estate owners.

In many cases the width required, and consequently the cost, is out of all proportion to the uses to which the road is likely to be put, while in other cases a far greater width is necessary than is stated under the present bye-laws.

In such cases the operation of bye-laws may under the Act be suspended, and so open the way to a more reasonable state of affairs.

(c) *Gradient*.—The gradient or inclination of a new street is very important, but is usually left to the discretion of the owner of the land across which it is proposed to construct the road. As previously mentioned,¹ a gradient of 1 in 20 is considered the maximum for ordinary traffic, but each case of high gradients under a scheme will, doubtless, be brought under careful consideration and dealt with on its merits.

In addition to the above the Act provides that the following matters may be dealt with:—

- (1) Stopping up or diversion of existing highways.
- (2) Buildings, structures and erections.

¹ See page 118.

- (3) Open spaces, private and public.
- (4) Sewerage, drainage and sewage disposal.
- (5) Lighting.
- (6) Water supply.
- (7) Ancillary or consequential works.
- (8) Extinction or variation of private rights of way and other easements.
- (9) Dealing with or disposal of land acquired by the responsible authority or by a Local Authority.
- (10) Power of entry and inspection.
- (11) Power of the responsible authority to remove, alter or demolish any obstructive work.
- (12) Power of the responsible authority to make arrangements with owners, and of owners to make agreements with one another.
- (13) Power of the responsible authority or a Local Authority to accept any money or property for the furtherance of the object of any town-planning scheme, and provision for regulating the administration of any such money or property, and for the exemption of any assurance with respect to money or property so accepted from enrolment under the Mortmain and Charitable Uses Act, 1888.
- (14) Application with the necessary modifications and adaptations of statutory enactments.
- (15) Carrying out and supplementing the provisions of this Act for enforcing schemes.

- (16) Limitation of time for operation of scheme.
- (17) Co-operation of the responsible authority with the owners of land included in the scheme or other persons interested by means of conferences, etc.
- (18) Charging on the inheritance of any land the value of which is increased by the operation of a town-planning scheme the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of land.

Assuming that the powers given by the Act were exercised to their full extent the result would be that in an area included in a town-planning scheme the owners of a whole district would be committed to a definite scheme of development, which would include the provision of recreation areas, parks and other open spaces; land would be reserved in order to preserve historical monuments and picturesque views, while the main traffic routes of the district would be laid down on the plan and agreed upon, and effected either by the widening and straightening of existing roads or by forming new main roads.¹ Certain portions of the area would be reserved for the erection of better class residences, with other portions reserved for smaller properties, shops, warehouses and factories. This would be somewhat similar to the "zone" system which has been adopted in certain towns on the Continent.

On the other hand, it is more reasonable to assume that the result of a scheme, as applied to a considerable area, would be—

- (a) to decide upon any necessary widening of the existing main roads;

(1) In this case the provisions of the Development and Road Improvement Funds Act, 1909, would operate in conjunction with the Town Planning Act.

- (b) to lay down the position and width of any new main roads, and also any necessary alterations either as to position or gradient of any portions of existing main roads ;
- (c) to lay down the position and widths of the more important secondary roads, or roads which are likely to be of considerable importance to the district ;
- (d) to make provision for recreation grounds, or other open spaces in suitable positions ;
- (e) to provide for the linking-up of building estates, both as to roads, drainage, etc., and so avoid the development of estates, whether large or small, with a sole regard to the immediate interests of a particular estate, and without regard to the amenity and convenience of neighbouring lands.

In such a case it is assumed that the main or arterial roads controlling the lay-out of a district would be first definitely decided upon (*i.e.*, the skeleton-plan), while the filling-in or detail work would be left to the judgment of individual owners of land, subject, however, to the controlling influence of the Local Authority or Local Government Board in order to prevent the object of a town-planning scheme being defeated.

In each of these cases the result would be a more orderly and convenient arrangement of roads of widths varying according to traffic requirements, while the houses and other buildings would be grouped in more advantageous positions both in relation to each other and to the open spaces provided by the scheme, to the benefit of all the inhabitants of the area included in the scheme.

The means by which it is hoped to attain this object are dealt with in the next chapter.

CHAPTER 10.

HOW TOWN PLANNING MAY BE OBTAINED.

THE GENERAL POWERS GIVEN TO LOCAL AUTHORITIES UNDER THE ACT.

THE preceding chapter explains the object of town planning and shows what matters may be dealt with in preparing a town-planning scheme. It will be seen at once that, although all of these matters can be brought under consideration, yet the way is also left open for dealing with any one or more of them. In a Circular Letter issued by the Local Government Board¹ it is distinctly mentioned that schemes may relate to "small areas or contain only proposals of a simple character and affecting few interests, and, on the other hand, to schemes which may deal with extensive areas and affect numerous ownerships and other interests and involve serious considerations of expense."

The land which may be included in a town-planning scheme² is defined in the Act as

(a) land which is in course of development³;

¹ Dated May 3rd, 1910, and forwarded to the London County Council, Town Councils, and Urban and Rural District Councils.

² Provisions are made for restricting the acquisition of certain lands. See page 143.

³ S. 54 (1).

(b) *land which appears likely to be used for building purposes.*¹

Such land *includes* any land likely to be used as or for the purpose of providing open spaces,² roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the Local Government Board as to whether land is or is not likely to be used for building purposes is final.³

The scheme need not, however, apply exclusively to the above land, as it may also include—

(c) *a piece of land which is not likely to be used for building purposes*, but which, by reason of its situation with respect to land which is likely to be used for building purposes, ought, in the opinion of the Local Government Board, to be included in a scheme⁴;

(d) *a piece of land which is already built upon*, but situated similarly to the land mentioned in (c).⁵

In such a case the Board, in authorising a scheme including the land, may provide for the demolition or alteration of any building thereon so far as may be necessary for carrying the scheme into effect.⁶

Town-planning powers do not, however, apply to the replanning of extensive built-up areas. The point was fully discussed in the Standing Committee

¹ During the Committee stage in the House of Commons attention was drawn to the fact that in the event of a narrow interpretation being given to the words "in course of development," or to the words "likely to be used for building purposes," the town-planning scheme would be limited to areas of land actually "ripe for building," and the greater part of the value of a town-planning scheme would thus be lost. The President of the Local Government Board urged, in reply, that the words used, instead of limiting the scope of the scheme, would have the opposite effect, especially as the Local Government Board take power to authorise the preparation of such a scheme "with reference to any land within or in the neighbourhood of the area of a Local Authority." S. 54 (1).

² For definition of "open space" see footnote 3, page 89.

³ S. 54 (7).

⁴ *Ibid.*

⁵ *Ibid.*

⁶ S. 54 (3).

of the House of Commons, and an amendment proposing that the words "whether vacant or built upon" should be added after the word "land" where it first appears in Section 54 (1)¹ was not agreed to, and town-planning powers must therefore be looked upon as applying almost entirely to vacant land.

It will, however, be evident that in certain cases where two or more "towns" lie only a short distance apart, a scheme proposed for one "town" might embrace some of the land adjoining another "town." This at once raises the important question as to who is responsible for the carrying out of a scheme, and how such contingencies are provided for. The Act applies to the whole of England, Wales and Scotland,² and gives the various Local Authorities³ authority to prepare or adopt⁴ schemes which must receive the approval of the Local Government Board⁵; and in cases where more than one Local Authority is concerned in the scheme, the authority whose duty it is to enforce the observance of the scheme is to be called "the responsible authority."⁶

Where land included in a town-planning scheme is—

- (1) in the area of more than one Local Authority, or is
- (2) in the area of a Local Authority by whom the scheme was not prepared,

the responsible authority may be—

- (a) one of those Local Authorities ;

¹ See page 127.

² As to the application of the Act to Scotland, see page 94 *et seq.*

³ For the purposes of this Part of the Act "Local Authority" means the Council of any borough, urban or rural district. S. 65 (1). In the Administrative County of London the London County Council is the Local Authority. S. 66 (1). It appears, however, that the London County Council may, as respects any land in the County of London, give their consent to the preparation of a scheme by one or other of the Local Authorities in the county. S. 55 (3).

⁴ S. 54 (2). See page 138

⁵ See page 130.

⁶ S. 55 (2).

- (b) for certain purposes of the scheme one Local Authority, and for certain purposes another Local Authority, or
- (c) a joint body constituted specially for the purpose by the scheme.

In this case the scheme may include all necessary provisions for constituting the joint body and giving them the necessary powers and duties.¹

A town-planning scheme may originate in one of three ways:—

- (1) A Local Authority may consider it advisable in the interests of the district to prepare a scheme themselves.
- (2) A Local Authority may adopt a scheme proposed by all or any of the owners of any land with respect to which the Local Authority might themselves have been authorised to prepare a scheme.²
- (3) Any representation may be made to the Board to the effect that a Local Authority have failed to take the necessary steps to prepare a scheme where this is necessary, in which case the Board may, after holding a local inquiry, order the Local Authority to prepare and submit a satisfactory town-planning scheme.³

In each case the authorisation of the Local Government Board is necessary for the preparation or adoption of a scheme,⁴ and will not have effect unless it is approved by order of the Board. The Board may refuse to approve any scheme except with such modifications and subject to such condi-

¹ S. 55 (3).

² S. 54 (2). As to schemes proposed by owners, see Chapter 10.

³ S. 61 (1).

⁴ S. 54 (2).

tions as they think fit to impose.¹ When the approval has been obtained the scheme is to have effect as if it were enacted in the Act.²

It is easy to conceive that circumstances may arise under which it may be necessary to effect radical alterations in a scheme which has been approved by the Board.³ In such cases the responsible authority or any other person who appears to the Local Government Board to be interested in the scheme may apply to the Board, who may, by order, revoke a scheme if they consider the revocation is warranted by the special circumstances of the case.⁴

Before a town-planning scheme is approved by the Board notice of their intention to do so must be published either in the *London* or *Edinburgh Gazette*, and if within twenty-one days from the date of publication any person or authority interested objects in the prescribed manner⁵ the draft of the order must be laid before each House of Parliament for a period of not less than thirty days during the Session of Parliament; and if either of those Houses, before the expiration of that time, presents an address to His Majesty against the draft or any part of it, no further proceedings can be taken, but this need not prejudice the making of any new draft scheme.⁶

In the carrying out of a town-planning scheme it is evident that in many cases the Local Authority will have to—

- (1) acquire land for certain purposes of the scheme (*e.g.*, open spaces, recreation grounds, widening, etc.) and raise the necessary money for the purpose;

¹ S. 54 (4).

² S. 54 (5).

³ *e.g.*, the construction of a new railway through the area comprised in a scheme, the opening of a new station or the merging of two estates into one.

⁴ S. 54 (6). As to compensation payable owing to revocation of scheme, see page 144.

⁵ See page 179.

⁶ S. 54 (4).

- (2) compensate the owners for such acquisition ;
- (3) provide the necessary survey for promoting and preparing a scheme.

The important question of compensation is dealt with in the next chapter.

ACQUISITION OF LAND.

It is clearly stated in the Act¹ that the responsible authority may, for the purpose of a scheme, purchase any land comprised in a scheme, either—

- (a) by agreement, or
- (b) by compulsion.

In the latter case the land will be acquired in the same manner and subject to the same provisions (including any provision authorising the Local Government Board to give directions as to the payment and application of any purchase money or compensation)² as a Local Authority may purchase land by compulsory powers in an urban district for the purposes of Part III. of the Housing of the Working Classes Act, 1890, as amended by Section 2 of the Act of 1909.³

Certain land may be saved from acquisition for the purposes of a town-planning scheme, such as the site of an ancient monument, land belonging to certain corporations and companies, and pleasure grounds required for the amenity of a dwelling house,⁴ while restrictions are placed upon the acquisition of

¹ 1909, s. 60 (1). This section, read with s. 6 (page 69), gives Local Authorities full power to purchase estates and to develop the same themselves (municipal estates), either by building cottages (under Part III. of the Act of 1890, as amended by the Act of 1909) or constructing roads and leasing building sites (under s. 5 of the Act of 1900).

² 1909, s. 5.

³ Section 2 states that land may be acquired compulsorily by means of an order submitted to the Local Government Board and confirmed by them in accordance with Schedule I. of the 1909 Act.

⁴ 1909, s. 45.

land forming part of any common, open space or allotment,¹ as well as upon land in the neighbourhood of royal parks and palaces.²

EXPENSES AND BORROWING.

(a) Outside London.

Any *expenses* incurred by a Local Authority for the purposes of this Part of the Act, or any scheme made thereunder, are to be defrayed as expenses of the authority under the Public Health Acts, *i.e.*, out of the general district rate.

A Local Authority may *borrow* money for the purpose in the same manner and subject to the same provisions as they may borrow money for the purposes of the Public Health Acts. The money borrowed is not to be reckoned as part of the debt of the borough or urban district for the purposes of the limitation on borrowing.³

(b) In London.

Any *expenses* incurred by the London County Council are to be defrayed out of the general county rate, and any money may be *borrowed* by the Council in the same manner as money may be borrowed for general county purposes.⁴

The Local Government Board have issued Regulations setting out in detail the procedure to be adopted in cases where a Local Authority intends to prepare or adopt a scheme.

These Regulations are dealt with in Chapter 12 and chiefly relate to the matters mentioned in Schedule V. of the Act.⁵ They also make provision for securing

¹ 1909, s. 73. See page 89.

² 1909, s. 74. See page 90.

³ S. 65. Under the Public Health Act, 1875, s. 234 (2) (3). As to Scotland see page 97.

⁴ S. 66 (2).

⁵ See page 148.

co-operation between the Local Authority and owners and other persons interested in the scheme by means of conferences, etc., and also for securing that notice of the proposal to prepare or adopt a scheme should be given at the earliest stage possible to any council¹ interested in the land.²

In order to carry out the scheme the responsible authority is empowered, after giving notice as provided by a scheme and in accordance with its provisions, to—

- (a) remove, pull down or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with ; or
- (b) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme.³

The above paragraph limits the power of the responsible authority to execute works to those which the scheme expressly makes it the duty of some person to execute. It does not enable the authority to execute works which it is made a person's duty to execute otherwise than by the scheme, or works which the scheme merely requires to be executed in a particular position or in a particular way if executed at all. It will not in all cases be necessary that the pulling down, etc., of existing buildings which contravene the scheme should take place at

¹ "Council" presumably includes "County Council."

² S. 56. The Local Government Board attach great importance to the value of co-operation on the part of the Local Authority with the owners and other persons in the land. Every available means is to be used to smooth away difficulties and differences, and the whole usefulness of the town planning part of the Act rests almost entirely upon amicable arrangements and conciliatory proposals being considered and entertained by the various parties interested. Failing these the success of this Part of the Act would seem foredoomed to failure.

³ S. 57 (1).

once after approval has been given to the scheme. This would involve needless expense where the development contemplated by the scheme did not take place immediately.

Any expenses incurred by a responsible authority in such cases will be recoverable from the persons in default in the manner and under conditions provided by the scheme.¹

Where the Local Government Board are empowered to determine any matter under the Town Planning Part of the Act, or any scheme made under the same, either as arbitrators or otherwise at their option, except in cases where it is otherwise expressly provided; and where the Board elect or are required to determine a matter as arbitrators, the provisions of the Regulation of Railways Act, 1868, and the enactments amending those provisions are made applicable with appropriate modifications.²

Any question that arises as to whether any building or work contravenes the scheme, or whether any provision of a town-planning scheme is not complied with in the erection or carrying out of any such building or work, is to be referred to the Board, and must, unless the parties otherwise agree, be determined by the Board as arbitrators, and the decision of the Board is made final and conclusive and binding on all persons.³

Section 85 of the Housing of the Working Classes Act, 1890,⁴ which relates to inquiries by the Board, as amended by Schedule VI. of the 1900 Act, are applicable for any purposes of the Town Planning Part of the Act.⁵

¹ S. 57 (2).

² S. 62.

³ S. 57 (3). In such cases the Board can appoint an arbitrator to act for them, a course which they would usually follow as regards cases arising under Section 57.

⁴ See page 80.

⁵ S. 63.

POWERS OF BOARD IN CASE OF DEFAULT OF LOCAL
AUTHORITY TO MAKE OR EXECUTE A SCHEME.

The Board have power, where they are satisfied on any representation, and after holding a public local inquiry, that a Local Authority have—

- (a) failed to take the requisite steps for having a satisfactory town-planning scheme prepared and approved in a case where a scheme ought to be made; or
- (b) have failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted; or
- (c) have unreasonably refused to consent to any modifications or conditions imposed by the Board;

to order the Local Authority, as the case requires,

- (a) to prepare and submit for the approval of the Board a satisfactory town-planning scheme; or
- (b) to adopt the scheme; or
- (c) to consent to the modifications or conditions inserted by the Board in the scheme.

Where, however, the representation is that a Local Authority have failed to adopt a scheme, the Board, in lieu of making such an order as above mentioned, may approve the proposed scheme, subject to such modifications or conditions (if any) as the Board think fit, and thereupon the scheme is to have effect as if it had been adopted by the Local Authority and approved by the Board.

Again, the Board are empowered, if they are satisfied on any representation, after holding a local inquiry, that a responsible authority have failed to enforce effectively the observance of a scheme which has been confirmed or any provisions of the scheme,

or to execute any works which under the scheme or the Town Planning Part of the Act the authority are required to execute, to order that authority to do all things necessary for enforcing the observance of the scheme or any provisions of the scheme effectively, or for executing any works which under the scheme or Town Planning Part of the Act they are required to execute.

Any order of the Board made under this section will be enforceable by mandamus.¹

¹ S. 61.

CHAPTER 11.

HOW TOWN PLANNING MAY BE OBTAINED—(*continued*).

THE EFFECT OF THE ACT UPON THE LAY-OUT AND DEVELOPMENT OF BUILDING ESTATES.

It has been shown in the preceding chapter that a Local Authority is empowered to prepare a town-planning scheme with reference to any land within or in the neighbourhood of their area, provided they can satisfy the Board that there is a *prima facie* case for making a scheme. The Board may also authorise a Local Authority to adopt, with or without any modifications, any scheme proposed by "all or any of the owners of any land with respect to which the Local Authority might themselves have been authorised to prepare a scheme." It has been previously observed that the Act does not limit the area to which a scheme may be made to apply, and that therefore *the powers of the Act can be made to apply to any area however small*, providing that the area comes under the heading of one or other of the various kinds of land mentioned in the Act.¹

Hence the importance of the Act to suburban and extra-suburban owners of estates can hardly be over-estimated.

The possible results from the operation of the Town Planning Part of the Act are, however, so numerous and the ramifications so wide that it is difficult at the present time to gather under a few headings the effects of the Act.

¹ S. 54 (2). As to what land can be included in a scheme, see page 127 *et seq.*

The most important matters dealt with are as follows:—

(A) POWER TO COMPEL THE LINKING-UP
OF ESTATES.

A study of the 25in. Ordnance maps will disclose many instances where neighbouring estates have been developed on entirely self-contained lines, and where the absence of roads connecting or "linking-up" one estate with the other has been the cause of preventing, to some extent, the orderly growth of the whole district. Instances of this kind are known to every surveyor and estate agent, and many of the cases are very regrettable. Plate 4 illustrates the evil effects resulting from a lack of co-operation between the owners of the land. The history of such cases is often one of jarring personal interests, while in others it may arise from circumstances over which owners have no control.

The absence of co-operation between two adjoining owners (as far as the linking-up of roads is concerned) arises in one or other of the following ways:—

- (a) Where one of the owners does not desire to "link up" his land with that of his neighbour;

Cases of this kind may arise from various causes—

It may be that one owner is developing his estate for houses of a prime cost of, say, £600, while the adjoining owner proposes to erect houses of a prime cost of £300. In this instance the owner of the smaller property would probably stand to gain by linking-up, while the owner of the land with a higher restriction might have his property depreciated through such close contact with houses or intended houses of a lower value. In other cases it may be that one owner requires a prohibitive sum of money or consideration for the privilege of connecting up with his land.

- (b) where neither owner desires it, but where it is, or will be, desirable for the convenience of the district ;

(b) Under this heading may be included cases where two estates, both situated in good positions, are being developed entirely independent of one another, and possibly for the erection of houses of a similar kind. In such a case neither owner would gain any personal benefit by linking up the estates if it is assumed that both are "going off" well. At the same time it may be that in the early future connecting roads will be necessary for the convenience of the district.

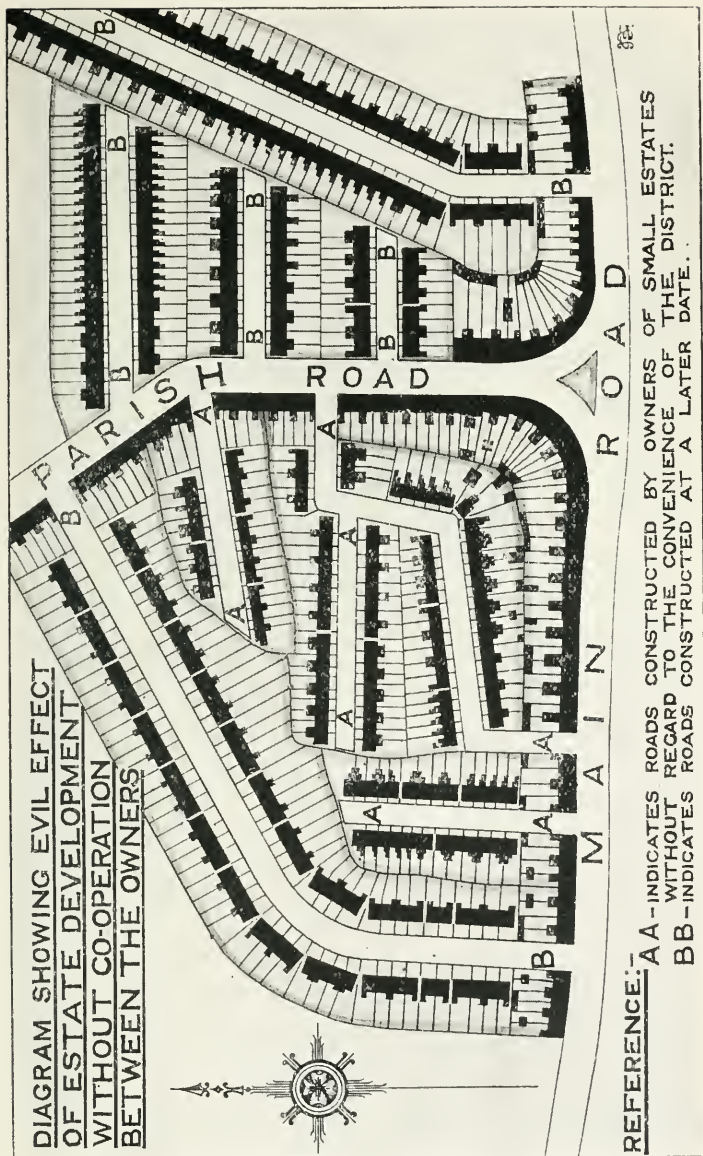
- (c) where both owners desire it, but are prevented by certain circumstances from doing so.

(c) Cases under this heading are not likely to be numerous. In most instances a mutual agreement between the two owners would be sufficient to bring about the "marriage" of two estates. One owner, however, may have purchased a considerable portion of a large building estate, where the roads were made or where a definite scheme of development had been laid down. In such a case it is more than likely that a clause will have been inserted in his conveyance to the effect that no road shall be constructed through or over any portion of the land other than in the positions shown on the deed plan, and the original owners may object to any variation of the scheme.

Each of these cases presents difficulties, and the manner in which they may be surmounted by the powers given under the Act are dealt with later.

PLATE 4.

Referred to on page 139.



- (B) POWER TO SUSPEND THE OPERATION OF ANY STATUTORY ENACTMENTS, BYE-LAWS, REGULATIONS, OR OTHER PROVISIONS, UNDER WHATEVER AUTHORITY MADE, WHICH ARE IN OPERATION IN THE AREA INCLUDED IN THE SCHEME.¹

The chief point in this clause is that in the preparation of a scheme the widths of the proposed roads, and the character and method of road making, need not necessarily be those contained in the bye-laws applying to the district. As previously mentioned, certain councils have discretionary powers as to deciding the widths of roads,² but in the great majority of cases new roads are to be constructed from 36ft. to 50ft. in width.³

This necessarily means that whether the property proposed to be erected will be five storeys high and built right up to the roadway, or whether it is proposed to erect two-storey cottages well set back from the road, the width of the road must be the same in each case. The road may form a "short cut" between two points, and bear a great amount of traffic, while on the other hand it may be in a quiet part of the district, almost undisturbed by traffic other than the usual tradesmen's carts and vans.

But here, again, under the bye-laws the width of the road must be the same in each case. The powers given under the Act will render it possible to make valuable economies in this direction.

- (C) POWER TO FIX BUILDING LINES IN CERTAIN CASES.

In the majority of cases Local Authorities have no power to fix building lines in new roads; but where a narrower road is permitted than is allowed under

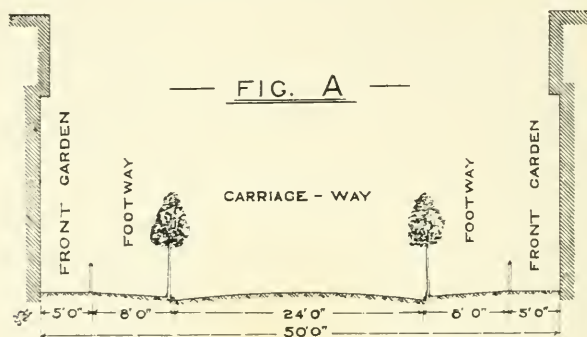
¹ S. 55 (2).

² See page 118.

³ The Model Bye-laws require a minimum of 36ft. for a through carriage road, of which the carriage-way must be 24ft. in width and the footways 6ft. each.

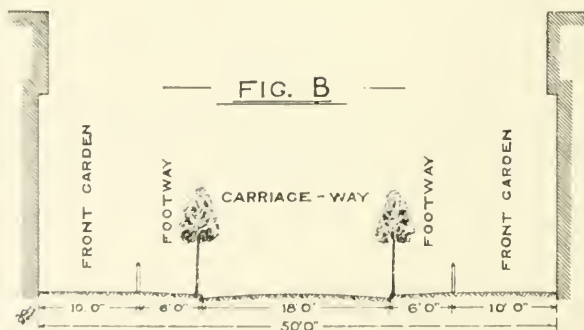
the bye-laws it becomes an important factor in the planning of estates, and a scheme may establish the building lines on such roads. The following diagrams will explain this:—

FIG. A represents a road 40ft. in width, with houses erected on both sides, having a building line of 5ft.



on each side. The total width from building to building is therefore 50ft.

Assuming that the width of the road is reduced to 30ft., and that the building lines are fixed at 10ft. each, the width from house to house will still be 50ft., as shown in FIG. B below:—



In cases such as these the estate owner is saved a considerable sum of money in road construction, and the Local Authority or ratepayers should benefit owing to the reduced cost of maintenance.

(D) POWER TO IMPOSE RESTRICTIONS ON THE NUMBER OF BUILDINGS WHICH MAY BE ERECTED ON EACH ACRE AND THE HEIGHT AND CHARACTER OF THOSE BUILDINGS.¹

The power to impose restrictions upon land is one which may cause considerable uneasiness in the mind of the landowner.

It must, however, be remembered that restrictions as to the number of houses to be erected on each acre may be to the joint interests of all the owners, while in other cases it will probably have a detrimental effect upon the value of the land belonging to some of the owners. Two adjoining estates may be, in the course of development, for entirely different classes of property, with the result that the estate which is being laid out for good class property may be ruined by the erection of cottage or "slum" property on the adjoining land. Instances are common where land has been purchased at a fair price and subject to a certain restrictive value, while the adjoining land belonging to the vendor has been held back from the market, and subsequently sold almost free from restriction.

In the former case a builder may work hard and erect good property, and before he is half way through with his "job," his market is spoilt through an inferior property being erected almost opposite.

This, in many instances, is unfair, and when taken into consideration with other factors governing legitimate estate development, no hardship need result to the landowner. There does not

¹ Schedule V., Article V. See page 256.

appear to be any clause or word in the Act which is sufficient to lead one to believe that it is the intention of the Act to impose restrictions on land indiscriminately.

(E) COMPENSATION IN RESPECT OF PROPERTY
INJURIOUSLY AFFECTED BY THE SCHEME.¹

The clauses relating to compensation are of vital importance, as compensation in certain cases may be excluded or disallowed.

Any person whose property is injuriously affected by the making of a town-planning scheme is, if he makes a claim for the purpose within the time (if any limited by the scheme, not being less than three months after the date when notice of the approval of the scheme is published in the manner prescribed by Regulations made by the Local Government Board, entitled to compensation in respect thereof from the responsible authority.

Where a town-planning scheme is revoked by an order of the Local Government Board, any person who has incurred expenditure for the purpose of complying with the scheme is entitled to compensation in so far as any such expenditure is rendered abortive by reason of the revocation of the scheme.²

Compensation, however, is limited or excluded in the following cases :—

(1) Where property is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme no compensation will be paid in respect thereof if or so far as the provisions are such as would have been enforceable if they had been contained in bye-laws made by the Local Authority.³

¹ S. 58 (1).

² S. 58 (6).

³ S. 59 (1).

(2) Property is not deemed to be injuriously affected by reason of the making of any provisions inserted in a town-planning scheme which, with a view to securing the amenity of the area included in the scheme or any part of it,

(a) prescribe the space about buildings, or

(b) limit the number of buildings to be erected, or

(c) prescribe the height or character of buildings, and which the Local Government Board, having regard to the nature and situation of the land affected by the provisions, consider reasonable for the purpose.¹ A person is not entitled to claim compensation on account of any building erected on, or contract made or other thing done with respect to land included in a scheme after the time at which the application for authority to prepare the scheme was made, or after such other time as the Local Government Board may fix for the purpose. This provision, however, does not apply as respects any work done before the date of the approval of the scheme for the purpose of finishing a building begun or of carrying out a contract entered into before the application was made.²

(3) Where a person is entitled to compensation under the Act in respect of any matter or thing, and he would be entitled to compensation for the same matter or thing under any other enactment, he is not entitled to claim both under the Act and under the other enactment, nor is he entitled to any greater compensation under the Act than he would be under the other enactment.³

¹ S. 59 (2). "Cases may arise in which the Council may desire to insert provisions in a scheme in reference to these matters which the Board would be unable to consider reasonable. If, however, the Council were willing to pay compensation in respect of these provisions, in so far as they exceeded what the Board considered reasonable in the circumstances, there would be no necessary difficulty in inserting such provisions in the scheme. The Board would, of course, make it clear, when approving the scheme, how far they were able to regard the provisions as reasonable for the purposes of the subsection." (Extracted from a Memorandum issued by the Local Government Board.)

² S. 58 (2).

³ S. 59 (3).

As to better-
ment.

There is an important and entirely novel betterment clause in the Act, worded as follows :—

“Where by the making of any town-planning scheme any property is increased in value, the responsible authority, if they make a claim for the purpose within the time (if any) limited by the scheme,¹ are entitled to recover from any person whose property is so increased in value *one-half* of the amount of that increase.”²

The decision as to—

- (a) whether any property is injuriously affected ;
- (b) whether any property is increased in value ;
- (c) the amount and manner of payment (whether by instalments or otherwise) of the sum which is to be paid as compensation to the person aggrieved under (a), or the sum which the responsible authority is entitled to claim under (b) will be determined by the arbitration of a single arbitrator appointed by the Local Government Board, unless the parties agree on some other mode of determination.³

Any amount due to the person aggrieved or to the responsible authority may be recovered summarily as a civil debt.⁴

It would appear to be in the interests of owners to propose a scheme for a Local Authority to adopt, for the following reasons:—

¹ Not being less than three months after the date when notice of the approval of the scheme is first published, in the manner prescribed by regulations made by the Local Government Board.

² S. 58 (3). Questions have arisen as to the meaning to be attached to the words “by the making of any (or a) town-planning scheme.” On this point the following remarks are made in a Circular issued by the Board: “The Board have no authority to determine the interpretation to be placed upon provisions in the Act, but they are advised that, in giving effect to the section (58), no loss in value, or gain in value, of the property affected, which is not due solely to the making of the scheme, can be taken into account. There will no doubt be exceptional cases, but as a general rule the loss or gain in value would seem to depend upon a comparison of the full value of the property immediately prior to and irrespective of the making of the scheme with the full value of the property immediately after the making of the scheme, regard being had to the provisions of Section 59 of the Act.” See pages 144 and 145.

³ S. 58 (4).

⁴ S. 58 (5).

(a) To secure the co-operation of the Local Authority. On this side of the subject the following interesting remarks are made in a Circular Letter issued by the Local Government Board, and dated December 31st, 1909 :—

“The powers of landowners in the past have been practically limited to their own estates, and the local circumstances connected with the interests of owners of neighbouring properties have often hindered development in the direction most in harmony with the interests of the community. Much has, of course, been done by provisions in public general statutes, bye-laws, regulations and local Acts to secure sanitary conditions in the development of land.

“But such provisions, which commonly apply to a whole district, are inherently inelastic in their character, and are not concerned with amenity and convenience as affected by the particular circumstances of the actual land about to be developed.

“The Town Planning Part of the new Act involves, in fact, a material advance in the relation between the owners of land and the Local Authorities in this country, and enables each party to co-operate with the other in promoting the general interest.”

(b) To secure the suspension of bye-laws, regulations, etc., in certain cases, especially as to unnecessary widths of roads.

(c) To prevent, if possible, a small owner from developing his land in a way which is opposed to the best interests of the adjoining owners of land and the community.

(d) To secure the more orderly development of a district through the medium of a well-thought-out scheme and so reap the advantages, financial and otherwise, which should be the result.

CHAPTER 12.

THE PROCEDURE TO BE ADOPTED WITH RESPECT TO THE PREPARATION OR ADOPTION OF A TOWN-PLANNING SCHEME.

THE preparation of a well-thought-out town plan will necessarily involve considerable time, trouble and expense. In order to secure the best results it is therefore advisable that a definite procedure should be laid down setting out the various steps and stages to be gone through between the time of the inception of the scheme and its final approval by the Board.

Any regulations setting out the necessary procedure must be drawn so as to—

- (a) be of general application, *i.e.*, apply equally to schemes which relate to extensive areas as well as to those which are concerned with only small areas;
- (b) be capable of relaxation and alteration where justified in particular cases, and where reasonable cause is shown to entirely dispense with the same;
- (c) secure co-operation wherever possible between the Local Authority and other persons interested in any scheme;
- (d) allow sufficient time throughout all the stages for a full consideration of all the proposals to be included in any scheme, and afford facilities for all interested to place their views and objections before the Local Authority or the Board;
- (e) keep the expenses naturally inherent to every scheme as low as possible.

These points have been well observed in the **Town Planning Procedure Regulations** (England and Wales), 1910, issued by the Local Government Board.¹

It should be mentioned that the formalities enumerated in these Regulations will occupy a considerable period, and in any case the time will, of necessity, be upwards of ten months. It is obviously impossible to state a definite period of time, as each scheme will present its own difficulties, thereby causing delays, and while in some cases the minimum time may be but little exceeded in others it may be greatly increased.

The various formalities may, for convenience, be divided into five stages and summarised as follows:—

STAGE 1.¹

PREPARATION OF A PRIMA FACIE CASE BY THE LOCAL AUTHORITY FOR SATISFYING THE BOARD AS TO THE NECESSITY FOR A TOWN-PLANNING SCHEME, AND ASKING FOR THE AUTHORISATION OF THE LOCAL GOVERNMENT BOARD TO PREPARE OR ADOPT A SCHEME.²

Article No.

I.

Two months before making application to the L.G.B. for authority to prepare or adopt a scheme the L.A. must serve notices upon owners, etc., of their intention to make such application and also advertise to same effect, during which time—

Referred to
on page

(a) Map No. 1 to be open for inspection, and

156

II.

(b) Special notices to be served by L.A. upon any council interested in the land.

157

¹ These were issued on May 3rd, 1910. The reasonableness of the Regulations is, perhaps, proved by the fierce criticism which has been levelled against them by those who held extreme views on town planning.

² In the following Articles the letters "L.G.B." and "L.A." are used as abbreviations for Local Government Board and Local Authority respectively.

Article No.		Referred to on page
III.	(c) L.A. to consider objections to scheme by means of conferences, etc., and at least one meeting to be held.	157
IV.	L.A. pass resolution to the effect that application be made to the L.G.B. to prepare or adopt a scheme as shown by Map No. 2. Copy of resolution transmitted without delay to L.G.B., and	159
V.	Application accompanied by necessary documents, including copy of all objections to scheme and Map No. 3.	159, 160
VI.	If scheme is prepared by L.A., additional particulars are to be shown on Map No. 2, and	160
VII.	If proposed by owners, additional particulars are also required.	160
VIII.	L.A. in all applications to furnish L.G.B. with statement indicating general description of scheme, reasons in support of application, etc.	162
IX.	Additional information to be given to L.G.B. in a case of adoption of scheme of L.A.	163
X.	L.A. must state estimated cost of scheme, and give information as to area, population, rateable value, debt, etc.	163
XI.	L.A. transmit application to L.G.B. and give notice by advertisement that such application has been made.	164

Article No.	<u>STAGE 2.</u>	Referred to on page
XII.	L.G.B. AUTHORISE L.A. TO PREPARE OR ADOPT A SCHEME.	164
	<u>STAGE 3.</u>	
	THE PROCEDURE NECESSARY TO OBTAIN THE APPROVAL OF THE BOARD TO THE SCHEME.	164
	SUB-STAGE 1.	
	THE PROCEDURE TO BE ADOPTED BEFORE SUBMITTING THE SCHEME TO THE BOARD.	
	L.A. serve notice upon owners, etc., to the effect that such authority has been given, and that the L.A. propose to pre- pare or adopt a scheme.	165
XIII.	L.A. consider all objections and representations made by persons interested in the scheme.	167
XIV.	L.A. having fully considered and developed their pro- posals, decide to prepare scheme in regard to the area of land as to which they have been authorised to prepare a scheme.	167, 168
	Draft scheme to be printed and Map No. 4 to be prepared showing details of proposals.	167
XV.	If scheme is proposed by owners, scheme to be printed and also a memorandum of any modifications proposed by L.A., and Map No. 4 to be prepared showing details of proposals.	167

Article No.		Referred to on page
XVI.	At least one month before deciding upon scheme to be submitted to L.G.B. the L.A. must serve notices that a draft scheme has been prepared, and that they intend to adopt same. Draft scheme and Map No. 4 to be deposited for inspection.	169 169
XVII.	L.A. to consider objections to scheme by means of conferences, etc., and at least one meeting to be held (as in Article III.)	170
XVIII.	The L.A. having decided upon the scheme to be submitted to the L.G.B. for approval, make an order under their seal, and Map No. 5 to be sealed in connection with the order.	170
XIX.	L.A. pass resolution that application be made to L.G.B. for their approval to scheme.	171
XX.	L.A. transmit to the L.G.B. (with the application for approval) various formal documents (including a copy of all objections to scheme), together with Maps Nos. 6 and 7.	171
XXI.	Statements similar to those in Articles VIII. and IX. also required, in nearly all cases, together with additional information as to bye-laws, water supply, particulars of any land forming part of a common or open space, etc.	173

Article No.		Referred to on page
XXII.	L.A. to furnish estimate and particulars as to cost of scheme, information as to area, population, rateable value, expenditure and receipts, debt, local Acts, orders, bye-laws, etc.	175
	<p style="text-align: center;">SUB-STAGE 2.</p>	
	THE PROCEDURE TO BE ADOPTED AFTER SUBMISSION OF THE SCHEME, BUT BEFORE APPROVAL OF THE BOARD HAS BEEN GIVEN.	176
XXIII.	L.A. submit scheme to L.G.B. and give notice by advertisement of such submission, stating that a copy of the scheme may be inspected and that all objections to the same must be made in writing within a limited time.	176
XXIV.	If L.G.B. make any modifications or attach any conditions to scheme, draft order is transmitted to L.A., who serve copy of same upon owners, etc., and stating that any objections or representations as to the modifications must be made in writing within a limited time.	177
	L.A. advertise that copy of draft Order may be inspected with similar notice as to objections and representations. L.A. to furnish Board with any objections or representations in regard to proposed modifications or conditions.	177, 178

Article No.		Referred to on page
XXV.	L.G.B. notify L.A. of their intention to approve scheme, with or without modifications, and transmit to L.A. draft Order approving the scheme. L.A. within 14 days of receiving notification give notice by advertisement of intention of Board to approve scheme, and to publish notice of such intention in <i>London Gazette</i> .	178
XXVI.	Prescribes manner in which objections to schemes must be made.	179
	<u>STAGE 4.</u>	
XXVII.	L.G.B. ISSUE ORDER APPROVING SCHEME.	180
	<u>STAGE 5.</u>	
	PROCEDURE AFTER APPROVAL OF SCHEME. L.A. GIVE NOTICE OF SUCH APPROVAL BY ADVERTISEMENT IN LOCAL NEWSPAPER, AND ALSO SERVE COPY OF ORDER APPROVING SCHEME UPON OWNERS, ETC.	180
	L.A. satisfy L.G.B. that the necessary formalities have been carried out.	
	<u>GENERAL.</u>	
XXVIII.	Relates to notices, etc., to Board of Agriculture and Fisheries and to Commissioners of Works in certain cases.	181

Article No		Referred to on page
XXIX.	Relates to notices, etc., to Board of Trade and to Light Railway Commissioners in certain cases.	182
XXX.	Relates to service of notices.	182
XXXI.	States that proofs of compliance with certain Regulations to be furnished by statutory declarations.	183
XXXII.	Makes provisions as to Maps.	185
XXXIII.	States that L.A. is to furnish all information required by the L.G.B.	185
XXXIV.	States that L.G.B. may consent to departures from Regulations.	186
XXXV. XXXVI. }	Refer to title.	

The Local Authority, before preparing or adopting a town-planning scheme with reference to any land within or in the neighbourhood of their area, must satisfy the Board that there is a *prima facie* case for so doing.¹

STAGE I.

PREPARATION OF A PRIMA FACIE CASE BY THE LOCAL AUTHORITY FOR SATISFYING THE BOARD AS TO THE NECESSITY FOR A TOWN-PLANNING SCHEME AND ASKING FOR THE AUTHORISATION OF THE LOCAL GOVERNMENT BOARD TO PREPARE OR ADOPT A SCHEME.

In order to prepare the *prima facie* case the Local Authority must first decide to proceed with the necessary steps for making such application.²

¹ S. 54 (2).

² Presumably this decision will be made by a resolution passed by members of the Council forming the Local Authority.

After this decision has been made the Local Authority must—

Service of
notices.

(1) *serve a notice of their intention to make such application*

upon those affected by the proposed scheme. These will include—

- (a) owners, reputed owners, lessees, reputed lessees, and occupiers of the land proposed to be included in the scheme ;
- (b) the council of any borough, urban or rural district within which any part of the land is included in the scheme ;
- (c) the County Council, if any main road is, or may be, affected by the proposed scheme.¹
- (d) The Board of Trade and Light Railway Commissioners, in cases where tramway or light railways are constructed, or are authorised to be constructed on any land proposed to be included in the scheme.²
- (e) The Board of Agriculture and Fisheries and Commissioners of Works in certain cases.³

By advertisement in some local newspaper or newspapers.

Advertisements
in local papers.

The above notices must describe the land proposed to be included in the scheme, and state the place at which a map of the land⁴ is deposited, and when the same may be inspected by any person interested.

In any case at least two months must elapse between the time notices are served and application is made to the Board for authority to prepare or adopt a scheme.

¹ As to manner in which notices are served, see page 182.

² Article XXIX.

³ Article XXVIII. See page 181.

⁴ To be marked and known as Map No. 1.

(2) *Deposit a map showing the land proposed to be included in the scheme* (to be marked and known as Map No. 1).¹ The map is to be deposited at a convenient place for inspection not later than the date on which the first of the said notices is given, and kept deposited for not less than one month from the date on which the latest of the said notices is given. Inspection of the map may be made by any person interested without payment of any fee, at all reasonable hours on any week day during the said period, and the Local Authority must provide for any necessary explanation in regard to the same.

Map No. 1.

A certified copy of Map No. 1 is to be furnished by the Local Authority to the council of any urban or rural district within which any part of the land proposed to be included in the scheme is comprised.²

Serve Special Notices to Councils interested.

(3) In order that any notice may be given at the earliest stage possible to any council interested in the land included in a scheme, the Local Authority must, within seven days after they have decided to consider a proposal for authority to prepare or adopt a scheme, serve notice of their decision upon such council.³

Special notice to Councils.

(4) *Consideration of objections to Scheme, Conferences, etc.*

Consideration of objections to schemes, etc.

Any objections or representations made to the Local Authority, in writing, with reference to the proposed scheme, must be considered by them, whether made by—

(a) owners or other persons interested in the land ;

(b) owners or other persons interested in any lands in the neighbourhood of the land included in and which may be affected by the proposed scheme ;

¹ As to details to be shown on the Map, see page 187.

² Procedure Regulations, 1910, Article 1.

³ Article II.

(c) the council of any borough, urban or rural district in which any of the land is proposed to be included in the scheme;

(d) any council who may be interested in or affected by the scheme.¹

The Local Authority must endeavour to secure co-operation by means of conferences, between themselves or their officers and such owners, persons or councils, and also by any other means available, to promote the scheme.

Holding of
conferences,
etc.

In order to still further secure co-operation, the Local Authority must arrange for at least one meeting at which all owners, persons or councils mentioned above are entitled to attend or be represented, for the purpose of considering the proposed scheme. Notice of the meeting must be served not less than fourteen days before the time fixed for the meeting on all such owners, persons or councils so far as they can be ascertained.

On opening the meeting the president,² or a member or officer of the Local Authority, is to give such explanation of the scheme as he thinks expedient.³

At this point it will be evident whether or not the proposed scheme is likely to mature. Should it appear after the consideration of the objections and after the conferences held that the difficulties in the way of the scheme are so serious that further steps would be likely to prove abortive the scheme may be abandoned. On the other hand, should the circumstances be favourable to the proposed scheme, the

¹ Copies of all objections made in writing so far as they are not withdrawn or removed will accompany the application to the Board.

² The president of the meeting is to be the Mayor (in the case of a town council of a borough) or the chairman of the Council (in the case of the London County Council or an urban or rural district council). In the event of these being unable or unwilling to act, the president is to be any person appointed for the purpose by the Local Authority, or in default of such appointment some person present and chosen by the meeting.

³ Article III.

Local Authority may feel justified in continuing the procedure which is necessary to make the formal application to the Board.

(5) *Application to the Board for authority to prepare or adopt a scheme.*

Before proceeding further it is necessary to obtain the consent of the Board. For this purpose the Local Authority must pass a resolution to the effect that an application be made to the Board for authority to prepare or adopt a scheme.¹

Application for authority to prepare or adopt a scheme.

The resolution must define by reference to a map (to be marked and known as Map No. 2)² the land in reference to which it is desired to prepare or adopt the scheme, and also stating whether the land is entirely within the area of a Local Authority or wholly or partly within a neighbouring area.³

Map No. 2.

A copy of the resolution, certified by the clerk to the Local Authority, must be transmitted by him to the Board without delay, together with a covering-letter and a statement as to—

Copy of resolution to be transmitted to Board.

- (a) the total number of members of the Local Authority ;
- (b) the number who voted for the resolution ;
- (c) the number who voted against the resolution ;
- (d) the number who were present at the meeting, but did not vote ;
- (e) the number absent from the meeting.⁴

The application shall be accompanied by—

(a) The statutory declaration and exhibits required by the regulations in proof of compliance with the requirements mentioned under Nos. 1 and 2 of this Stage. (See pages 156 and 157.)⁵

Documents, etc., to accompany application.

¹ Article IV. (a).

² As to details to be shown on the Map, see page 188.

³ Article IV. (b).

⁴ Article IV. (c).

⁵ Article V. (a).

(b) Map No. 2,¹ or a copy of the same,² certified by the clerk to the Local Authority.

Map No. 3.

(c) A map on the scale of in. to the mile (to be marked and known as Map No. 3).³

(d) A copy of all objections made in writing in reference to the proposed scheme so far as the objections have not been withdrawn or removed.⁴

(e) If the application relates to the adoption of a scheme proposed by owners, a copy of the scheme so proposed and a statement of any modifications which the Local Authority are of opinion should be made on the scheme.⁵

Additional particulars to be shown on Map No. 2 in case of the preparation or adoption of schemes.

Additional particulars are to be shown on Map No. 2 where a scheme is prepared by a Local Authority, and other particulars are also required in the case of the adoption of a scheme by a Local Authority.⁶

Information to be furnished to the Board in connection with all applications.

A statement or statements giving the following particulars and information:—

(a) A general description of the scheme, including information as to—

- (1) the general character of the land proposed to be included in the scheme ;
- (2) the extent to which the scheme applies to land in course of development ;
- (3) the extent to which it applies to land likely to be used for building purposes and the grounds for considering that the land is likely to be so used.

(b) The reasons on which the Local Authority rely in support of their application.

¹ See page 188.

² Article V. (b).

³ As to details to be shown on the Map, see page 190.

⁴ Article V. (d).

⁵ Article V. (e).

⁶ Article VI. and VII. See page 189.

(c) If the scheme includes land already built upon or land not likely to be used for building purposes, the reasons which, in the opinion of the Local Authority, render it necessary or desirable to include such lands in the scheme; particulars of the buildings on the lands; such information as the Local Authority may be in a position to give in regard to the extent to which it would be necessary to provide for the demolition or alteration of the buildings for the purpose of carrying the scheme into effect; and as regards any land not likely to be used for building purposes, the grounds on which it is considered that such land would not be so used.

(d) Information as to the arrangements in operation in the area of the Local Authority in regard to sewerage, drainage and sewage disposal, water supply and lighting, and the like information in regard to the area of any other Local Authority in which any part of the land included in the scheme is comprised, and also information to show to what extent the arrangements as to sewerage, drainage and sewage disposal would be available or would require alteration or modification for the purposes of the area included in the scheme. If any company, whether statutory or otherwise, is supplying or has power to supply water, gas, or electricity in the area included in the scheme, it should be so stated and particulars given in regard thereto.

(e) If the area of the land included in the scheme is not wholly within the area of the Local Authority making the application, information shall be supplied as to the proposals in regard to the authority who are to be responsible for enforcing the observance of the scheme and for the execution of any works which under such scheme or under the Town Planning part of the Act of 1909 may have to be executed by a Local Authority.

(f) Information as to any monuments or ancient monuments, within the meaning of the Ancient

Monuments Protection Acts, 1882 to 1900, situate within the area included in the scheme and as to the manner in which they would be affected.

(g) If any land or property of any Government Department would be affected by the scheme, particulars in regard to any such property and as to the Government Departments concerned.¹

Estimate as to cost of scheme : information as to area, population, rates, debt, etc.

The Local Authority must also state, as nearly as may be practicable, the estimated cost of carrying out the scheme, so far as the cost is expected to be borne by—

- (a) the Local Authority making the application, and
- (b) any other Local Authority.

The Local Authority shall also furnish the Board with such information as they may require as to the manner in which the estimated cost is arrived at.

Subject to the proviso hereinafter contained, the Local Authority shall also furnish a statement showing the following particulars with respect to the district of the Local Authority, that is to say :—

- (1) The acreage ;
- (2) the population according to the last Census ;
- (3) the rateable value for the purposes of the poor rate ;
- (4) the amount in the £ of every rate levied during the three last preceding financial years ;
- (5) the amount of the balances of the outstanding loans contracted by the Local Authority and the sum included in such amount in respect of loans for sanitary purposes ; and
- (6) the amount of the loans sanctioned but not raised though proposed to be raised, and the sum included in such amount in respect of loans for sanitary purposes :

¹ Article VIII.

Provided that if it is proposed that the cost of the scheme to be borne by the Local Authority shall be charged upon any contributory place or places in their district the particulars required under heads 1, 2, 3 and 4 hereof shall be given with respect to such place or places only.¹

If any part of the cost of the scheme is expected to be borne by a Local Authority other than the Local Authority making the application, the first-mentioned Local Authority shall make a statement showing in regard to their district the several particulars indicated in paragraph (b) of this article, and shall supply the same to the last-mentioned Local Authority, who shall transmit it to the Board with the said application.²

In addition to the preceding information, which is applicable to all schemes, additional information must accompany an application relating to the adoption of a scheme proposed by owners as follows:—

Additional information to be furnished to the Board in a case of adoption of scheme.

(a) The names and addresses of the owners, lessees, and occupiers of each parcel of the land included in the scheme, and the approximate extent of each such parcel.³

(b) Information showing in what respects the proposals in the scheme would involve the suspension of any statutory enactments, bye-laws, regulations or other provisions which are in operation in the area included in the scheme.⁴

(c) Information as to the extent to which it may be contemplated or necessary under the scheme that land included in the scheme shall be acquired—

(1) by the Local Authority making the application or

(2) by any other Local Authority.⁵

¹ Article X. (b).

² Article X. (c).

³ Article IX. (a).

⁴ Article IX. (b).

⁵ Article IX. (c).

(d) Definite information as to whether any of the owners by whom the scheme is proposed will, in the event of the scheme being adopted by the Local Authority and approved by the Board, claim compensation on the ground that his property would be injuriously affected by the making of the scheme; and particulars of any information in the possession of the Local Authority in regard to the probability of any other person making a claim for compensation on that ground.¹

(e) If, in the opinion of the Local Authority, any property will be increased in value by the making of the proposed scheme, information as to such property and as to the estimated increase in value.²

Notice of application and date of resolution by advertisement.

When the Local Authority have transmitted to the Board their application for the approval of the Board to the preparation or adoption of a scheme, the Local Authority must forthwith give notice of their application, and of the date of the resolution making the application, by advertisement in some local newspaper or newspapers.³

STAGE 2.

Authorisation given by Board for Local Authority to prepare or adopt a Scheme.

Authorisation to prepare or adopt a scheme.

The authority is given by means of an Order or instrument of the Board, and, as far as a scheme proposed by owners of land is concerned, may be given with or without modifications.⁴

STAGE 3.

The procedure necessary to obtain the approval of the Board to the Scheme.

The procedure necessary to obtain the approval of the Board.

This stage may be conveniently divided into two sub-stages, viz.: (1) The procedure to be adopted

¹ Article IX. (d).

² Article IX. (e).

³ Article XI.

⁴ Article XII. (a).

before submitting the scheme to the Board; (2) the procedure to be adopted after the submission of the scheme, but before approval of the Board has been given.

SUB-STAGE 1.

THE PROCEDURE TO BE ADOPTED BEFORE SUBMITTING THE SCHEME TO THE BOARD.

As soon as the Local Authority have received permission from the Board to prepare a scheme, or to adopt, with or without modifications, a scheme proposed by owners, the Local Authority must forthwith—

Procedure
before submit-
ting scheme to
Board.

Serve a notice upon—

Service of
notices.

- (a) Owners, reputed owners, lessees or reputed lessees, and occupiers of the land in reference to which authority to prepare or adopt a scheme has been given.
- (b) The council of any borough, urban or rural district within which any part of the land is included in the scheme.
- (c) The County Council, if any main road is, or may be, affected by the scheme.¹
- (d) The Board of Agriculture and Fisheries and Commissioners of Works in certain cases.²

The notice is to be to the effect that such authority has been given, and that a copy of the order or instrument giving such authority may be inspected, and any necessary explanation or information in regard thereto may be obtained, without payment of any fee, at a place which shall be specified in the notice, at all reasonable hours (specifying the same) on any week day pending the preparation or adoption

¹ Article XII. (a).

² Article XXVIII. See page 181.

of the scheme.¹ The notice shall also state that the Local Authority propose to prepare a scheme or, as the case may be, to adopt with or without modifications the scheme proposed by owners, and that any person interested or affected desiring to be heard in reference to such proposal, including any persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme, should give notice in writing to the clerk to the Local Authority within twenty-one days from the date of the notice.²

Give notice to the same effect by advertising in some local newspaper or newspapers.¹

Notices as to
exclusion of
lands.

In certain cases it may be that land included in the application of the Local Authority to the Board is subsequently excluded from the authorisation of the proposed scheme.

Notice of such exclusion must be served by the Local Authority upon—

- (a) owners, reputed owners, lessees or reputed lessees, and occupiers of such excluded land ;
- (b) the council of any borough, urban or rural district within which any part of the excluded land is comprised ;
- (c) the County Council, if any main road, would or might have been affected by the inclusion of the excluded land³ ;
- (d) the Board of Agriculture and Fisheries and Commissioners of Works in certain cases.⁴

The Local Authority must make suitable provision for affording to any person interested or

¹ Article XII. (a).

² Article XII. (c).

³ Article XII. (b).

⁴ Article XXVIII. See page 181.

affected inspecting the Order or instrument of the Board giving authority to prepare or adopt a scheme any necessary explanation or information in regard thereto.¹

In connection with the preparation or adoption of a scheme, the Local Authority must carefully consider all objections and representations made to them in writing by any persons or councils interested or affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme.²

Consideration of objections, etc., by Local Authority.

The procedure differs somewhat in cases where, on the one hand, a scheme has been prepared by a Local Authority, and on the other a scheme has been proposed by owners. For convenience of comparison the procedure in each case is set out as follows:—

PREPARATION OF SCHEME BY LOCAL AUTHORITY.

When the Local Authority have fully considered and developed their proposals and have decided to prepare a scheme in regard to an area of land in respect of which they have been authorised to prepare a scheme, they shall cause to be printed a draft scheme embodying their proposals and shall cause a map or, if the case so require, maps (to be marked and known as "Map No. 4" or "Map No. 4 (A)," "Map No. 4 (B)," etc.³

SCHEME PROPOSED BY OWNERS.

When the Local Authority have fully considered the scheme proposed by owners in respect of an area of land in regard to which the Local Authority have been authorised to adopt a scheme with or without modifications and have decided to adopt the same with or without modifications, they shall cause to be printed a copy of the scheme proposed by owners, and shall prepare and cause to be printed a memorandum of all modifications which they propose should be made in such scheme and shall obtain from the owners or shall themselves provide a map or maps (to be marked and known as "Map No. 4" or "Map No. 4 (A)," "Map No. 4 (B)," etc.⁴

¹ Article XII. (d).

² Article XIII.

³ Article XIV. As to details to be shown on the Maps, see page 190.

⁴ Article XV. See page 190.

The proposals of the Local Authority relating to the scheme should at this stage have assumed some definite shape, and it will next be necessary to continue the procedure in order to obtain the approval of the scheme by the Board. The formalities to be gone through are somewhat similar to those which were necessary for making an application to the Board for authority to prepare a scheme, and are as follows :—

The Local Authority having prepared a draft scheme, or (as the case may be) having the intention of adopting a scheme proposed by the owners, and that they intend to submit the same, with or without modifications to the Board for approval, must—

Service of
notices.

(1) *serve notices to the above effect as follows :—upon—*

- (a) owners, reputed owners, lessees, reputed lessees and occupiers of the land included in the scheme ;
- (b) the council of any borough, urban or rural district within which any part of the land is included ;
- (c) the County Council, if any main road is, or may be, affected by the scheme¹ ;
- (d) the Board of Agriculture and Fisheries and Commissioners of Works in certain cases.²

By advertisement in some local newspaper or newspapers.³

In each case notices must—

Matters to be
mentioned in
notices.

- (1) describe the land proposed to be included in the scheme ;
- (2) state where the documents and maps (mentioned under (2) on the following page) are deposited ;

¹ Article XVI.

² Article XXVIII.

³ Article XVI. (a).

- (3) state the period and time during which the same will be open for inspection by any persons interested or affected ;
- (4) state that the Local Authority are prepared to consider any objections or representations which may be made to them in writing during the said period ;

and the notice by advertisement must also—

- (5) state that the Local Authority will be prepared to consider any objections or representations made in writing by any persons affected, including any persons representing any architectural or archaeological society or otherwise interested in the amenity of the proposed scheme.¹

At least one month must elapse between the time notices are given and the time of deciding upon the scheme to be submitted to the Board for approval.²

(2) *Deposit documents and maps* as follows :—

- (a) The draft scheme, together with Map No. 4³; Map No. 4.
or
- (b) The scheme and memorandum of modifications, together with Map No. 4, in the case where the scheme is proposed by owners.⁴

These documents must be deposited at a convenient place for inspection not later than the date on which the first of the said notices is given, and kept deposited for not less than twenty-one days from the date on which the latest of the said notices is given.

The inspection may be made by any person interested or affected without payment of any fee, at all

¹ Article XVI. (c).

² Article XVI. (a).

³ Referred to in Article XIV.

⁴ Referred to in Article XV.

reasonable hours on any week day during the said period, and the Local Authority must provide for any necessary explanation in regard to the same.¹

Consideration
of objections,
etc., by Local
Authority.

(3) *Consider objections to scheme, hold conferences, etc.*

The procedure which applies to the consideration of objections and representations and the holding of a meeting, etc., prior to obtaining the authority to prepare a scheme, and mentioned on page 157, shall apply also in regard to procedure before the Local Authority decide upon the scheme to be submitted to the Board for approval, whether in regard to a scheme prepared by the Local Authority or a scheme proposed by owners and proposed to be adopted by the Local Authority.²

Making or
adoption of
scheme to be by
order of Local
Authority.

(4) *Make an Order under their seal, making or adopting a scheme and sealing map in connection therewith.*

When the Local Authority have decided upon the scheme to be submitted to the Board for their approval, whether in regard to a scheme prepared by the Local Authority or a scheme proposed by owners and proposed to be adopted by the Local Authority, they must make an Order under their seal, authenticated by the signature of their clerk or deputy clerk, making the scheme, or (as the case may be) adopting the scheme proposed by owners with such modifications as may have been decided upon by the Local Authority.

Map No. 5.

A map to be known as Map No. 5³ must be sealed by the Local Authority in connection with the Order.

¹ Article XVI. (b).

² Article XVII.

³ Article XVIII. As to details to be shown on the map, see page 192.

(5) Application to the Board to approve Scheme.

Before proceeding further it is necessary to obtain the approval of the Board to the scheme.¹ For this purpose the Local Authority must pass a resolution to the effect that an application be made to the Board to approve the scheme as set out in the immediately preceding paragraph (No. 4).

Application to Board to approve scheme.

A copy of the resolution, certified by the clerk to the Local Authority, must be transmitted without delay to the Board by the clerk, with a covering letter, and accompanied by a statement as to—

- (a) the total number of members of the Local Authority;
- (b) the number who voted for the resolution;
- (c) the number who voted against the resolution;
- (d) the number who were present at the meeting but did not vote, and
- (e) the number absent from the meeting.²

When the Local Authority transmit to the Board their resolution requesting the approval of the Board to the scheme as made or adopted by the Local Authority, they must transmit to the Board—

Documents, etc. to accompany application.

- (a) The statutory declarations and exhibits required by the Article XXXI.³ in proof of compliance with the requirements mentioned on page 116 (Articles XII. and XVI.).⁴

¹ If it is thought that at any stage prior to the submission of a scheme for approval, "the advice or assistance of any of the Board's experts might tend to facilitate agreements with the owners concerned or to save labour or expense, the Board will be quite ready to arrange for such assistance or advice being given." (From a Circular issued May 3rd, 1910.)

² Article XIX.

³ See page 183.

⁴ Article XX. (a).

(b) A sealed copy and three other copies of the Order of the Local Authority containing the scheme as made or adopted by them, and a certified copy of every map referred to in the Order.¹

Map No. 6.

(c) A map, to be marked and known as "Map No. 6," showing the district of the Local Authority and the land included in the scheme.²

Map No. 7.

(d) A map, to be marked and known as "Map No. 7," showing the area of the land included in the scheme so divided as to indicate as nearly as may be the portions of such land belonging to different owners.³

(e) A copy of all objections made in writing in reference to the scheme so far as the objections have not been withdrawn or removed in the scheme as finally prepared or adopted by the Local Authority.⁴

Information to be furnished to Board in connection with an application for approval of scheme.

(a) The Local Authority shall furnish the Board with a statement or statements giving in regard to the scheme prepared or adopted by the Local Authority the particulars and information mentioned on pages 162 and 163 (Articles VIII. or IX.), so far as such particulars and information are not contained in the scheme.

The said particulars and information shall be given in regard to every scheme whether prepared by the Local Authority or adopted by them.

Provided that where the particulars and information furnished to the Board, mentioned on pages 162 and 163 (Articles VIII. or IX.), or any division of either of those Articles, represent fully and accurately the particulars and information required by this Article in regard to the scheme as prepared and

¹ Article XX. (b).

² Article XX. (c). As to details to be shown on the map, see page 193.

³ Article XX. (d). *Ibid.*

⁴ Article XX. (e).

adopted by the Local Authority it shall be sufficient if a reference be made to the particulars and information previously furnished and mentioned on pages 162 and 163 (Articles VIII. or IX.), or any division thereof.¹

(b) The Local Authority shall also furnish the Board with a statement or statements giving the particulars and information indicated below so far as they are not contained in the scheme—

- (1) Information to show whether the scheme admits of satisfactory provision being made in regard to the supply of water, gas or electricity within the area included in the scheme.
- (2) Information in regard to any tramways or light railways constructed or authorised to be constructed in the area included in the scheme or in the immediate neighbourhood thereof.
- (3) In regard to any lands proposed to be acquired by (a) the Local Authority submitting the scheme or (b) any other Local Authority any information available as to the probability of the lands being acquired by agreement.
- (4) Particulars in regard to any land included in the scheme which belongs to (a) the Local Authority submitting the scheme or (b) any other Local Authority; the purposes for which and the authority under which such land was acquired or is held; and also information as to any proposal in regard to its use for any other purposes under the scheme.
- (5) If the Local Authority are of opinion that any property will be injuriously affected by the making of the scheme within the

¹ Article XXI. (a).

meaning of the Act of 1909, information, so far as it is practicable to give the same, in regard to such property and as to the extent to which the Local Authority consider that it may be injuriously affected.

- (6) Detailed particulars of any works which are to be executed under the scheme by any person or Local Authority, so far as to any such particulars are available.
- (7) If the scheme contains provisions suspending any enactment contained in a public general Act, a full explanation of any such provisions and the reasons which are considered to justify their insertion.
- (8) If the scheme contains provisions suspending any other statutory enactments, bye-laws, regulations, or other provisions which are in operation in the area included in the scheme, a full explanation of any such provisions and the reasons which are considered to justify their insertion.
- (9) Particulars of any land forming part of any common, open space, or allotment, within the meaning of Section 73 of the Act of 1909,¹ which is within the area included in the scheme, and of any part of that land which under the scheme is authorised to be acquired or appropriated to any other purpose, and particulars in regard to any land proposed to be given in exchange for the land so to be acquired or appropriated.
- (10) Particulars of any land included in the scheme which is situate within the distance prescribed by Regulations made by the Board under Section 74 of the Act of 1909² from any of the royal palaces or parks.³

¹ See page 89.

² See page 90.

³ Article XXI.

(a) In connection with an application to the Board for their approval of the scheme prepared or adopted by the Local Authority, information shall be furnished in regard to the estimated cost of carrying out the scheme, so far as the cost is to be borne by—

Estimate and particulars as to cost of scheme: information as to area, population, rates, debt, local Acts, orders, bye-laws, etc.

(1) the Local Authority making the application and

(2) any other Local Authority.

Separate particulars shall be given under the following heads:—

Expenditure.

Purchase of land for open spaces.

Purchase of land for other purposes, specifying them.

Purchase of buildings.

Demolition or alteration of buildings.

Compensation in respect of property injuriously affected by the scheme.

Making or alteration of roads or ways.

Sewerage or drainage.

Cost of preparing the scheme.

Other purposes, specifying them.

Receipts.

In respect of property increased in value.

From other sources, specifying them.¹

If the statement or statements of particulars mentioned on page 163 (Article X. (b) or (c)) has or have owing to lapse of time or other circumstances become inaccurate in any material respect, an amended statement or amended statements of such particulars must be supplied.²

¹ Article XXII. (a).

² Article XXII. (b).

There must also be supplied a list and a copy of all local Acts, provisional orders, bye-laws, or regulations in force in the area of any Local Authority any part of whose district is included in the scheme; and in the case of any part of a district other than that of the Local Authority making the application to the Board being so included, such list and copy must be supplied by the Local Authority of that district to the Local Authority making the application, who must transmit them to the Board.¹

SUB-STAGE 2.

THE PROCEDURE TO BE ADOPTED AFTER SUBMISSION OF THE SCHEME, BUT BEFORE APPROVAL OF THE BOARD HAS BEEN GIVEN.

Notice by advertisement of submission of scheme.

- (1) *Notice by advertisement of submission of scheme to the Board*, objections, etc., may be made to the Board.

When the Local Authority have submitted to the Board for their approval the scheme prepared or adopted by the Local Authority they shall forthwith give notice of such submission by advertisement in some newspaper or newspapers circulating in the area of the Local Authority. The notice shall also state that a copy of the scheme submitted to the Board may be inspected by persons affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the scheme, at a place to be specified in the notice, without payment of any fee, at all reasonable hours (specifying the same) on any week day within a period of one month from the date of the notice, and that any objections and representations by any such persons should be made in writing and addressed to the Board, at their office, within the said period. A copy of the newspaper or newspapers containing such advertisement shall be forwarded to the Board by the clerk to the Local Authority.²

¹ Article XXII. (c).

² Article XXIII.

- (2) *Notices of modifications or conditions proposed by the Board, objections, etc., may be made to the Board.* Notes of modifications, etc., proposed by Board.

If the Board propose to make any modifications in or to attach any conditions to the scheme submitted for their approval, and transmit to the Local Authority a draft Order for approving the scheme with such modifications and conditions, the Local Authority must within fourteen days after the receipt of the draft Order serve a copy of the same upon

(a) Owners, reputed owners, lessees, reputed lessees, and occupiers of the land included in the scheme.

(b) The council of any borough, urban or rural district within which any part of the said land is included.

(c) The County Council, if any main road is affected.¹

(d) The Board of Agriculture and Fisheries in cases where any common, open space, or allotment is affected.²

A notice must also be served to the effect that any objections or representations in regard to such modifications and conditions are to be made in writing and addressed to the Board, at their office, within a period of one month from the date of serving such draft Order and notice.³

The Local Authority must also within fourteen days after the receipt of the draft Order give notice by advertisement in some newspaper or newspapers circulating in the area of the Local Authority that the Board have caused a draft Order to be prepared for approving the scheme subject to modifications or conditions, that a copy of the draft Order may be inspected and any information in regard thereto

Deposit of draft Order for inspection.

¹ Article XXIV. (a).

² Article XXVIII. See page 181.

³ Article XXIV. (a).

may be obtained, without payment of any fee, at a place which shall be specified in the notice, at all reasonable hours (specifying the same) on any week day during the period of one month from the date of the notice, and that any objections or representations in regard to such modifications and conditions should be made in writing and addressed to the Board at their office within a period of one month from the date of the notice.¹

Objections, etc., may be made to Board.

The Local Authority must furnish the Board within a period of one month from the receipt of the draft Order for approving the scheme, with modifications or subject to conditions, any objections or representations which they may desire to make in regard to the proposed modifications and conditions, and must also within the same period transmit to the Board the statutory declaration and exhibits required by Article XXXI.,² in proof of compliance with the requirements mentioned under (2), page 177 (Article XXIV).³

Intention of Board to approve scheme to be by advertisement.

(3) *Notice by advertisement of intention of the Board to approve the scheme.*—When the Board have decided to approve the scheme submitted for their approval, with or without modifications, and notify the Local Authority of the decision and transmit to the Local Authority a draft Order for approving the scheme, the Local Authority must within fourteen days after the receipt of such notification give notice by advertisement in some newspaper or newspapers circulating in the area of the Local Authority that the Board intend to approve the scheme, and propose, after the receipt by the Board of a copy of the newspaper or newspapers containing the advertisement, to publish forthwith in the *London Gazette*, in accordance with Sub-section (4) of Section 54 of the Act of 1909,⁴ a notice of such their intention, and that any person or authority interested and deciding to object to the scheme

¹ Article XXIV. (b).

² See page 183.

³ Article XXIV. (c).

⁴ See page 131.

being approved make his or their objection in the manner prescribed below (Article XXVI.) within twenty-one days from the date of such publication in the *London Gazette*.¹

A copy of the newspaper or newspapers containing the advertisement must be forwarded to the Board by the clerk to the Local Authority immediately on the publication thereof.²

The Local Authority must deposit at a place convenient for the purposes of inspection and shall keep deposited thereat the draft Order forwarded to them under this Article for the full period of twenty-one days from the date of the said publication in the *London Gazette*, and the draft Order shall be open for inspection by any person interested, without payment of any fee, at all reasonable hours on any week day during the said period.³

(4) *Manner of objecting to the approval of a scheme.*— When the notice of the intention of the Board to approve a scheme has been published in pursuance of Sub-section (4) of Section 54 of the Act of 1909,⁴ any person or authority interested and deciding to object to the scheme being approved must make his or their objection in the following manner, that is to say:—

Manner of
objecting to
approval of
scheme.

The objection must be made to and be brought before the Board by means of a letter or other representation in writing, which must be addressed and posted, or shall be otherwise given, sent or delivered to the Board at their office. The letter or representation must indicate clearly the scheme to which the objection is taken, and must state fully in what respects the person or authority objecting claims or claim to be interested in the scheme and the grounds on which the objection is made.⁵

¹ Article XXV. (a).

² Article XXV. (b).

³ Article XXV. (c).

⁴ See page 131.

⁵ Article XXVI.

STAGE 4.*Approval of the Scheme by the Board.*

Approval of
scheme by
Board.

The approval is given by means of an Order of the Local Government Board, and the Board may refuse to approve any scheme except with such modifications and subject to such conditions as they think fit to impose.

In ordinary circumstances the Board would probably find it necessary or desirable to direct a local inquiry before giving the necessary authority to prepare or adopt a scheme.

STAGE 5.*Procedure after the approval of the Scheme.*

The Local Authority, on receipt of a copy of the Order of the Board approving a scheme, must without delay first publish notice of the approval of the scheme by advertisement in some newspaper circulating in the area of the Local Authority. The notice must state that the scheme has been approved with or without modifications or conditions as the case may be, and that the Order of the Board giving the approval, and a copy of any map or plan referred to in the Order or scheme, may be inspected and any necessary explanation or information in regard thereto may be obtained without payment of any fee at a place which is to be specified in the notice at all reasonable hours (specifying them) on any week day during the period of three months after the date of the Order. They must also, not earlier than the second day after the first publication in a newspaper as aforesaid, serve upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land included in the scheme, and upon the council of any borough or of any urban or rural district within which any part of the said land is comprised, and also, if any main road

is or may be affected by the scheme, upon the County Council, a copy of the Order approving the scheme and a notice that a copy of any map or plan referred to in the Order or scheme may be inspected, and any necessary explanation or information in regard thereto may be obtained as above mentioned.¹

The Local Authority must make suitable provision for affording any person inspecting the Order or scheme or any map or plan referred to therein within the said period any necessary explanation or information in regard thereto,² and must within fourteen days after the receipt of the said Order transmit to the Board the statutory declaration and exhibits required by Article XXXI.³ of these Regulations in proof of compliance with the requirements of the last paragraph but one of this Article.⁴

GENERAL.

NOTICES, ETC., TO BOARD OF AGRICULTURE AND FISHERIES, AND TO COMMISSIONERS OF WORKS IN CERTAIN CASES.

Wherever in these Regulations any notice or Order or scheme or draft Order or scheme is required to be served by the Local Authority upon any owner of land, the Local Authority must send a like notice or Order or scheme or draft Order or scheme to the Board of Agriculture and Fisheries at their office if in the scheme or proposed scheme there is any provision for the acquisition or appropriation to any other purpose of any land forming part of any common, open space, or allotment within the meaning of Section 73 of the Act of 1909⁵ and to the

¹ Article XXVII. (a).

² Article XXVII. (b).

³ See page 183.

⁴ Article XXVII. (c).

⁵ See page 89.

Commissioners of Works if any land included in the scheme or proposed scheme is situate within the distance prescribed by Regulations made by the Board under Section 74¹ of the Act of 1909 from any of the royal palaces or parks.²

NOTICES, ETC., TO BOARD OF TRADE AND TO LIGHT RAILWAY COMMISSIONERS IN CERTAIN CASES.

Where in a scheme proposed to be prepared or adopted by a Local Authority any land is proposed to be included on which tramways or light railways are constructed or are authorised to be constructed, the Local Authority must, when they give the notices required to be given under Article I.³ of these Regulations, also give notice to the Board of Trade and, as regards light railways, to the Light Railway Commissioners, of the intention of the Local Authority to apply for authority to prepare or (as the case may be) to adopt a scheme in regard to the said land, and are from time to time to furnish all such information as the Board of Trade or the Light Railway Commissioners may require in regard to the proposals so far as any tramways or light railways or an authorised route of any tramways or light railways may be affected.⁴

SERVICE OF NOTICES.

A notice required to be served in pursuance of these Regulations must be served—

(a) by delivery of the same personally to the person required to be served, or, if such person is absent abroad or cannot be found, to his agent; or

¹ See page 90.

² Article XXVIII.

³ See page 165.

⁴ Article XXIX.

(b) by leaving the same at the usual or last known place of abode of such person as aforesaid; or

(c) by post addressed to the usual or last known place of abode of such person; or

(d) in the case of a notice required to be served on a Local Authority or corporate body or company, by delivering the same to their clerk or secretary or leaving the same at his office with some person employed there, or by post addressed to such clerk or secretary at his office :

Provided that if the owner of any land is not known to and after diligent inquiry cannot be found by the Local Authority then the notice may be served by leaving it, addressed to the owner, with some occupier of the land, or, if there be not an occupier, then by causing it to be put up on some conspicuous part of the land ;

Provided also that a notice required to be given to an occupier may be addressed by the description of the "occupier" of the land or premises (describing it or them) in respect of which the notice is given, without further name or description.¹

PROOFS OF COMPLIANCE WITH CERTAIN REGULATIONS TO BE FURNISHED BY STATUTORY DECLARATIONS.

Proofs of compliance with the requirements of Articles I. (see pages 156 and 157) XII., (see pages 165 to 167), XVI. (see pages 168 and 169), XXIV. (see pages 177 and 178), and XXVII. (see pages 180 and 181) of these Regulations as extended by Articles XXVIII. (see page 182) and XXIX. (see page 182) are to the extent herein mentioned to be furnished to the Board by statutory declarations made by the clerk to the Local Authority or other person competent to make the same.

¹ Article XXX.

The declarations in each case are to specify the manner in which the notices required by those Articles to be served upon owners, lessees, and occupiers, and upon any other Local Authority or council, were served, and the names of the persons so served, and must also show that the other requirements of those Articles as to notices required to be given and as to the deposit of maps or plans or any documents required to be deposited have been duly complied with. There must also be annexed to the declarations as exhibits—

In regard to Article I. (see pages 156 and 157) a copy of

- (1) the form of notice served,
- (2) the map deposited for inspection, and
- (3) each newspaper containing the advertisement.

In regard to Article XII. (see pages 165 to 167)

- (1) copies of the forms of notices served, and
- (2) a copy of each newspaper containing the advertisement.

In regard to Article XVI. (see pages 168 and 169)

- (1) a copy of the form of notice served,
- (2) a copy of each newspaper containing the advertisement,
- (3) a statement showing the several parcels of land in respect of which notice was served upon each owner, lessee and occupier,
- (4) a copy of the draft scheme prepared by the Local Authority and deposited for inspection, or
- (5) a copy of the scheme proposed by owners and deposited for inspection, together with a copy of any memorandum prepared by the Local Authority of modifications in such scheme and deposited with the scheme for inspection, and
- (6) copies of the maps deposited for inspection.

In regard to Article XXIV. (see pages 177 and 178) a copy of

- (1) the form of notice served, and
- (2) each newspaper containing the advertisement.

In regard to Article XXVII. (see pages 180 and 181) a copy of

- (1) the order,
- (2) the form of notice served, and
- (3) the newspaper containing the advertisement.¹

PROVISIONS AS TO MAPS.

Any person interested in or affected by any scheme or proposed scheme is entitled to a copy of or extract from any map or plan required in pursuance of these Regulations, on payment of a reasonable fee to be determined by the Local Authority, and is entitled to inspect at all reasonable times any map or plan referred to in Article XXVII.² of these Regulations. Any fees received by the Local Authority are to be carried to the credit of the fund liable to be charged with the expenses of the Local Authority in connection with the scheme.³

LOCAL AUTHORITY TO FURNISH ALL INFORMATION, ETC., REQUIRED BY THE BOARD.

The Local Authority are to prepare and furnish to the Board all such maps, plans, sections, elevations and specifications, and all such particulars or information as the Board shall require to be prepared and furnished in connection with any scheme or proposed scheme at any stage of the proceedings in relation thereto.⁴

¹ Article XXXI.

² See pages 180 and 181.

³ Article XXXII. (b).

⁴ Article XXXIII.

BOARD MAY CONSENT TO DEPARTURES FROM
REGULATIONS.

Where the Board are satisfied that there is reasonable cause for dispensing, either conditionally or unconditionally, with compliance with any requirement of these Regulations, or for varying any such requirement, the Board may, by Order or otherwise, as they may think fit, give the necessary dispensation, or may make and give effect to the necessary variation and to any incidents or consequences of that variation ; and, in the case of any such dispensation when given subject to any condition, or in the case of any such variation, the Local Authority or other authorities or persons, as the case may be, must comply in all respects with the condition or variation and with any requirement of the Order or other writing or direction of the Board giving the dispensation or making the variation as if the condition, variation or requirement formed part of these Regulations :

Provided that the Board shall not exercise their powers under this Article in such a manner as to dispense with any provisions of these Regulations which are necessary to give effect to the requirements of the Act of 1909, or as so to vary any such provisions that they would cease to give effect to those requirements.¹

¹ Article XXXIV.

CHAPTER 13.

INFORMATION AS TO THE VARIOUS MAPS REFERRED TO IN THE PROCEDURE REGULATIONS.

THE maps to be used in connection with the preparation of a town plan are to be Ordnance maps wherever such are published in respect of the district or area in relation to which the maps are required, and must—

- (a) be on a scale not less than that specified in each case;
- (b) be mounted on linen and folded in book form; and
- (c) have a scale properly drawn thereon.¹

MAP No. 1.²

This map will show “the land proposed to be included in the scheme, and is to be on the scale of 25·344 inches to the mile.” This map is the same as the Parish or 25in. maps, and is especially useful, as it is the most detailed map published of the whole of the country. The areas of the fields are shown in acres and decimals of an area, while levels above Ordnance datum are shown along all the main roads. County and borough boundaries are shown, as well as municipal wards, urban districts, etc.

In many districts, especially those which are in the proximity of large towns, considerable developments will have taken place since the maps for the district were issued.

¹ Article XXXII. (a).

² Article I. (b). See page 157.

The Regulations as far as this map is concerned do not require it to be brought up to date, but it would be desirable and in some cases essential to do so in order to render the proposals intelligible.

MAP No. 2.¹

This map is prepared on a scale of not less than $25\frac{3}{4}$ inches to the mile,² will define the land in reference to which it is desired to prepare or adopt the scheme, and must state whether the land is entirely within the area of the Local Authority or wholly or partly within a neighbouring area. In addition to any other particulars required by the Regulations to be shown, the map must show clearly by means of boundary lines sharply defined in colour the area of the land included in the proposed scheme, distinguishing between the parts of the land included within the area of the Local Authority and within the area of any other Local Authority.

If the area of the land includes any piece of land already built upon, or any piece of land not likely to be used for building purposes, any such lands must be indicated on the map by distinctive colours and any necessary reference notes, and there must also be shown on the map in like manner the positions of any buildings which have been erected on the land or of any buildings which are in course of erection.³

¹ Article IV. (b). See page 159. In a Circular issued May 3rd, 1910, it is stated that the Board would not offer any objection to the use of Map No. 1 for Map No. 2, but such user would only be permissible if the latter map was identical in all respects with Map No. 1. It should be clearly understood, however, that a map which has been prepared and deposited to meet specific requirements of an article of the Regulations should not be subsequently altered to meet the requirements of a subsequent article.

² It will be noticed that Map No. 2 may be to a larger scale than the Parish Ordnance Map. In order to comply with the Article XXXII. (a) the scale must be one or other of the larger scale maps issued by the Ordnance Survey Department. In each case these are known as town maps, and the great majority are drawn to a scale of $\frac{1}{2500}$ of actual length on the ground, which is equivalent to 1056 feet to one mile or 41'66 feet to one inch. A few town maps have been published to a scale of $\frac{1}{2500}$ of actual length on the ground or 10 feet to a mile. Areas are not shown on town maps.

³ Article IV.

Additional particulars are to be shown in the following cases :—

SCHEME PREPARED BY
LOCAL AUTHORITY.

There is to be shown on Map No. 2 the lines and widths of the principal roads which the Local Authority propose shall be made as part of the scheme, the connections of the proposed roads with existing roads, and the lines of any existing sewers or any existing pipes or mains for the supply of water, gas or electricity. Any existing roads or ways which it will be necessary to stop up or divert must also be indicated on this map, and if the Local Authority contemplate that the scheme to be prepared shall provide for certain areas being used for the purpose of open spaces or for other special purposes those areas must as far as possible be indicated on the said map.¹

SCHEME PROPOSED BY
OWNERS OF LAND.

There is to be shown on Map No. 2 the lines and widths of all roads proposed as part of the scheme, the connections of the proposed roads with existing roads, and the lines of any existing sewers or any existing pipes or mains for the supply of water, gas, or electricity. Any existing roads or ways which it is proposed to stop up or divert must be indicated on this map, which must also indicate the areas proposed by the scheme to be allocated for the purpose of open spaces, private or public, or to be used for any other special purposes. This map must also show all such further particulars in relation to the scheme proposed to be adopted as are suitable for indication thereon, *e.g.*, any proposals as to lines of sewers, or of pipes or mains for the supply of water, gas or electricity.²

To comply with the above requirements it would be necessary to entirely revise and bring up to date the existing Ordnance maps, and such a process would entail a large amount of time and expense. To obviate this it is more likely that the Local Authority will build up the maps from materials to hand in the office, *i.e.*, from the drawings deposited and approved at successive meetings. In any case a large amount of checking and measuring on the ground will be necessary.

¹ Article VI.

² Article VII.

MAP NO. 3.¹

A map on the scale of 1 inch to the mile² (to be marked and known as "Map No. 3"), showing, by distinguishing colours or boundary lines in colour, the district of the Local Authority, the land included in the proposed scheme, and the area within a distance of five miles from any part of the district of the Local Authority.

Provided that, if the scheme is proposed to be made or adopted by the council of a rural district, it will not be obligatory that the map shall extend to the whole of the rural district, but it must extend to the contributory place or places therein in which any part of the land included in the scheme is comprised, and to the area within a distance of five miles from such place or places.

Provided also that, if in any case the land included in a scheme is wholly outside the district of the Local Authority, this map must show at least the area within a distance of five miles from any part of such land.

MAP NO. 4.³SCHEME PREPARED BY LOCAL
AUTHORITY.

A map (to be marked and known as "Map No. 4" or "Map No. 4 (A)," "Map No. 4 (B)," etc.) to be prepared on a scale of not less than 25'344 inches to the mile showing clearly by means of boun-

SCHEME PROPOSED BY
OWNERS OF LAND.

When the Local Authority have fully considered the scheme proposed by owners in respect of an area of land in regard to which the Local Authority have been authorised to adopt a scheme with or

¹ Article V. (c). See page 160.

² This map forms one of the various General Maps published by the Government and is drawn to a scale of $\frac{1}{62,500}$ of actual length on the ground. The sheets can be had in one of the following forms:—

- (a) Engraved edition, hills contoured.
- (b) Engraved edition, hills shaded in black or brown.
- (c) Colour printed edition, with contours in red.

The whole of England and Wales has been revised since 1893 and a further revision (third edition) is now in progress. Geological maps are also published on this scale showing the solid rock formations, and in many cases "Drift" Maps are also published showing the superficial deposits overlying them, the rock formations being coloured only when there is no drift. The importance of these "Sub-soil" maps is evident when the "proper sanitary conditions" of an area is under consideration.

³ Article XIV. See page 167.

MAP NO. 4—*continued.*

dary lines sharply defined in colour the area of the land included in the proposed scheme distinguishing between the parts of the land included within the area of the Local Authority and within the area of any other Local Authority, and also showing thereon all such particulars and details in relation to the proposed scheme as can conveniently be indicated thereon by the aid of reference letters or numbers, descriptive notes, distinguishing colours, or otherwise; and especially indicating and distinguishing on this map or these maps,

Existing main roads;

Roads repairable by the inhabitants at large;

Roads or footways over which the public have a right of way;

Roads on which tramways or light railways (a) have been constructed or (b) are authorised to be constructed;

Roads which the Local Authority propose shall be made as part of the scheme, indicating the widths thereof and any proposals as to the parts thereof to be appropriated or set apart for special purposes, and the connections of such roads with existing roads;

Roads or ways which it is proposed to stop up or divert;

Land already built upon;

Land not likely to be used for building purposes;

Land proposed to be allocated for use as open spaces, (a) private or (b) public;

Land to be used for any other purposes, including, *e.g.*, buildings for manufacturing

without modifications and have decided to adopt the same with or without modifications, they must (a) cause to be printed a copy of the scheme proposed by owners, and (b) prepare and cause to be printed a memorandum of all modifications which they propose should be made in such scheme and (c) obtain from the owners or themselves provide a map or maps (to be marked and known as "Map No. 4" or "Map No. 4 (A)," "Map No. 4 (B)," etc.) on a scale of not less than 25'34 inches to the mile, showing thereon all such particulars and details, as are required to be shown on the map or maps referred to in Article XIV.¹ of these Regulations.²

¹ See opposite column.

² Article XV., see page 167.

MAP NO. 4—*continued.*

purposes or buildings of a special character in reference either to the purposes to which they are to be applied or to their height or otherwise, indicating any restrictions proposed as to the number of buildings which may be erected on any portion of land or each acre in any portion of land ;

Land to be acquired by the Local Authority for any purpose ;

Lines of any existing sewers or any existing pipes or mains for the supply of water, gas or electricity.

Proposals as to lines of sewers or of pipes or mains for supply of water, gas or electricity.¹

MAP NO. 5.²

A map or, if the case so require, maps prepared in the manner and containing the particulars and details required by Article XIV.³ of these Regulations, but to be marked and known as "Map No. 5" or "Map No. 5(A)," "Map No. 5(B)," etc., must be sealed with the seal of the Local Authority in connection with the Order.

Provided that if the map or maps required by this Article to be prepared and sealed in connection with the Order would be identical in all respects with the map or maps prepared in accordance with Article XIV. or (as the case may be) Article XV.⁴ of these Regulations, the last-mentioned map or maps may, if the Local Authority think fit, be used for the

¹ Article XIV.

² Article XVIII. See page 170.

³ *i.e.*, those to be shown on Map No. 4 in connection with a scheme to be prepared by a Local Authority.

⁴ Refers to Map No. 4 in connection with a scheme proposed by owners. This provision has been inserted with the view of saving the expense of preparing unnecessary maps. See note, page 188.

purposes of this Article, but if so used they must also be marked as indicated in this Article as well as in the manner required by Article XIV. or Article XV. (*i.e.* as under Map 4).

MAP NO. 6.¹

A map on the scale of six inches to the mile² to be marked and known as "Map No. 6," showing, by distinguishing colours or boundary lines in colour, the district of the Local Authority and the land included in the scheme.

Provided that, if the scheme is made or adopted by the council of a rural district, it is not to be obligatory that this map shall extend to the whole of the rural district, but it shall extend to the contributory place or places therein in which any part of the land included in the scheme is comprised.

Provided also that if, in any case the land included in a scheme is wholly outside the district of the Local Authority, this map must show all the area intervening between that land and the district of the Local Authority.

There must also be shown on this map by some distinctive colours and any necessary reference notes all recreation grounds or public open spaces and public elementary schools in the area required to be shown on the map, and also the buildings which have been erected in that area up to the time when the map is sent to the Board, distinguishing so far as regards the land included in the scheme the buildings begun to be erected after the application was made to the Board for their approval to prepare or adopt the scheme.³

¹ Article XX. (c). See page 172.

² Known as "County Maps" drawn to a scale of $\frac{1}{10,560}$ of actual length on the ground. These maps show all houses and fields and generally the same detail as the 25in. maps, except that the areas and parcel numbers are not given. As in the one-inch maps contour lines are shown.

³ As to revision of maps see page 189.

MAP NO. 7.

A map on a scale of not less than 25'344 inches to the mile, or a plan drawn to some larger scale² (to be marked and known as "Map No. 7"), showing the area of the land included in the scheme so divided as to indicate as nearly as may be the portions of such land belonging to different owners. This map or plan must show as regards each portion of the land the name of the owner, or must bear numbers having reference to a statement, to be annexed to this map or plan, showing the names of the owners.

COLOURING OF THE MAPS.

The Regulations do not make provision for the adoption of definite schemes of colouring in the preparation of maps, so as to provide for uniformity of practice in regard to maps relating to town-planning schemes under the Act. The Local Government Board have, however, stated that they consider it advisable, in preparing the maps required at the several stages of a scheme, that the Local Authority should, as far as possible, follow the same scheme of colouring throughout all the maps so that, *e.g.*, if a particular colour is used to indicate some special feature on Map No. 1, the same colour should be used to indicate the same feature on any map at a later stage of the proceedings.

CONTOUR MAPS AND CONTOUR MODELS.

In deciding upon the lay-out of an undulating or hilly area, it becomes necessary to possess a representation of the land, showing by some means the difference in level between various points, so that the

¹ Article XX. (d). See page 172.

² This is the first definite mention made of a map drawn to a "larger scale." Although Article XXXII. (a) distinctly states that the maps are to be Ordnance maps, it may well be that in certain cases maps drawn to a scale other than those used by the Ordnance Surveyors will be allowed. Such a case would come under Article XXXIV., which states that the Board may consent to departures from the Regulations. See page 186.

position of the roads may be determined in order to entail least cost in construction, and also to properly fixing the best positions for open spaces, churches, public buildings, etc. To attain this purpose either maps or models may be used. In the former case differences in height may be indicated by contour lines which are drawn at stated intervals, or by shading (hachures). It has been previously mentioned¹ that the one-inch and six-inch Ordnance maps both show contour lines, but as a rule these are shown every 100 feet. In preparing a town plan on a 25in. Ordnance map (on which contour lines are not shown) it would be necessary to show contour lines drawn at intervals of every five or ten feet.

Where the land is flat, or very gently undulating, contour lines may be unnecessary, as the heights shown on the map along the main roads would be sufficient indication as to the "lie" of the land. If the intervals between the various contour lines is coloured so that the greater the altitude the darker the colour, an almost exact representation of the area is given.

Maps showing variation in height by shading are almost useless for town-planning purposes.

A correct model of a district is the nearest approach to an actual representation of nature, and, although in many instances very desirable, the comparatively heavy cost of its preparation will more than counterbalance any advantages it may possess. Perhaps the cheapest method of making contour map models is as follows:—

The ratio of relief or vertical to horizontal scale having been determined, thin cardboard or wooden boards are procured of the exact thickness of the contour interval. The outlines of each separate contour are then traced on the boards.

Each contour is then cut out by means of a knife or fret-saw and laid one upon the other. The model

¹ See note, page 193.

is thus built up in steps, the height of each of which bears a proper relation (because of the thickness of the material) to the vertical scale. The result is a completed model in steps, and, if desired, the re-entrant angles may be filled in with modelling clay or wax so as to produce a smooth outline.

A variation of the above is made by preparing a number of maps of the same area and pasting the same on thin cardboard. Each contour line is then carefully followed with the knife and each sheet is then superimposed on the next lower.

By having cardboard bearing a fixed relation in thickness to the contour interval an exact quantitative reproduction is obtained. It is inadvisable in such a case to have the cardboard very thick, as the result would be to exaggerate the vertical element too much and so produce a false effect by diminishing the proportionate width of valleys, thus making the country seem more undulatory than it really is.

Suggestions have been made that contour models should be prepared for the areas proposed to be included in town-planning schemes. In a Circular issued by the Local Government Board it is stated that they have not considered it advisable to include any provision on this matter in the Regulations, and they are disposed to think that it would not as a general rule be expedient to incur the expense of preparing such models, and that it would be found in practice that plans with contour lines drawn or coloured thereon so as to show the variations in the level of the land would meet adequately the necessities of the case.

CHAPTER 11.

Explanation of Example shown on PLATE 5.

THE example shows two building estates, one of which adjoins a Railway Station.

It will be noticed that the existing Main and Parish Roads follow a somewhat circuitous route, the result of which is that, apart from some scheme for "linking up" the two Estates, the North Estate, although only a short distance from the Station, is, by road, a considerable distance away.

The owner of the South Estate intends to develop his land for houses of a prime cost of £600 each, while the owner of the North Estate is of opinion that houses of considerably less prime cost will be more suitable for his land.

Apart from a Town Planning Scheme, and in the absence of co-operation on the part of the respective owners, each Estate would be developed on lines distinct from one another, with the probable result that both schemes, although satisfactory as far as the owners are individually concerned, will ultimately prove of but little "convenience" to the whole district, owing to certain of the new roads being constructed in positions which disregard the traffic and other requirements of the area.

We will now assume that, from an inspection of the plans submitted for the development of the two Estates, the Local Authority consider it advisable that through communication should be provided between the Estates along the sites hatched on plan.

The owner of the North Estate is in favour of the proposal to link up, but the adjoining owner is hostile to the suggestion, for two reasons—

- (a) being the owner of the land near the Station, he holds the "key" to the position ;
- (b) he intends to erect property of a higher prime cost than that intended to be built on the North Estate, and if linking up were to take place he might rightly consider that his land would be depreciated to some extent in value.

An informal meeting¹ between the Local Authority and the two owners elicits the fact that the amount required by the owner of the South Estate is out of all proportion to any damage he is likely to suffer. The meeting having proved abortive, the Local Authority prepare a scheme in accordance with the provisions of the Town Planning Part of the Act of 1909, including the area indicated on the plan showing sites for the proposed new roads (hatched on plan) to connect the two Estates.

¹ Such informal meetings are not obligatory, but it is more than likely that much good will result from friendly interviews prior to commencing the procedure mentioned in the Regulations.

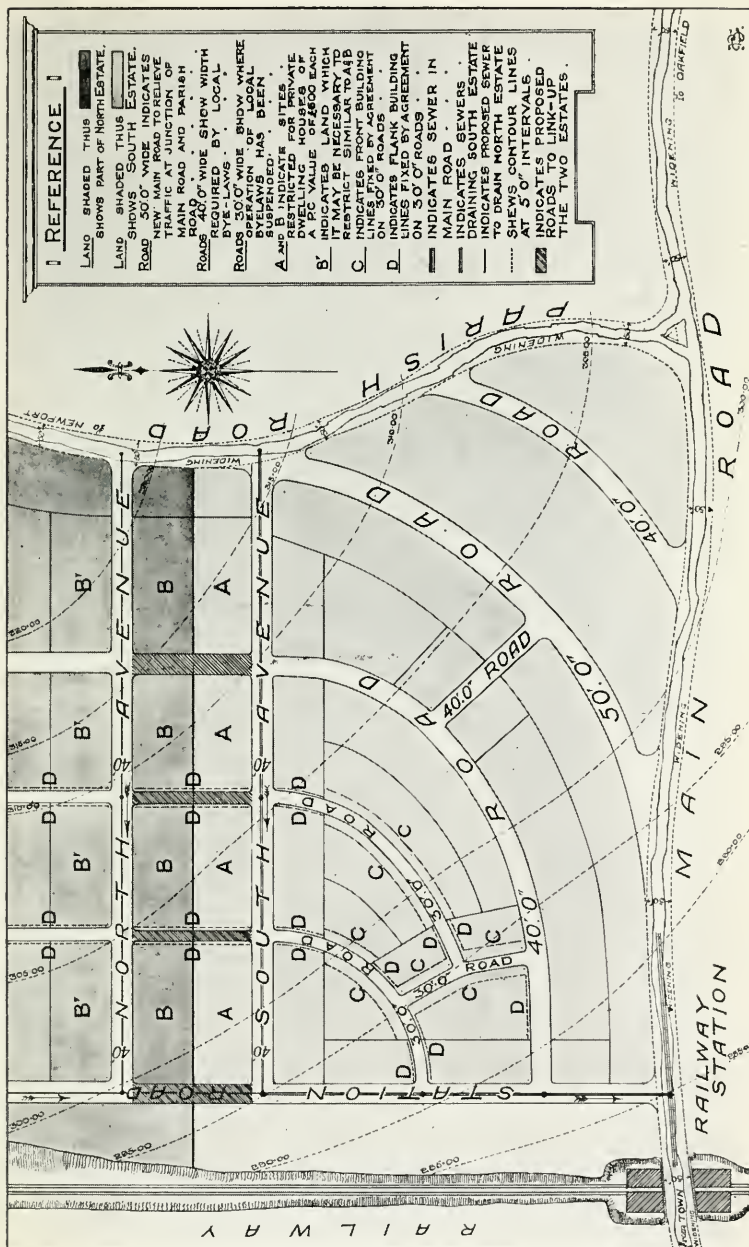
Assuming that the necessary procedure has been gone through the result may be as follows:—

- (a) The Local Authority purchase those parcels of land situate on the South Estate which form part of the sites of proposed "linking up" roads. The owner of the South Estate, in addition to obtaining the value of these sites, may require some further consideration on account of the Local Authority having imposed a flank building line on both sides of the 30ft. "linking up" roads.
- (b) The owner of the North Estate has previously agreed with the Local Authority to reimburse to them any expenses incurred in acquiring these road sites, at the same time agreeing to give up those portions of the road sites which are on this Estate.
- (c) The owner of the North Estate agrees with the Local Authority (probably with the concurrence of the owner of the South Estate) to construct roads at his own expense within a limited time and to an approved specification over the sites hatched on plan.
- (d) The amount payable to the Local Authority in the event of their "taking over" those portions of the "linking up" roads which are on the South Estate would, in the ordinary way, be a liability attaching to the owner of the corner sites, although arrangements may be made whereby some quid pro quo being given, the owner of the South Estate would be indemnified from liability for Road charges on the frontages to the roads hatched on plan.
- (e) By the opening of the roads hatched on plan for traffic purposes the value of the land on the North Estate will have increased, owing to the Estate being more accessible from the Railway Station, and unless otherwise arranged by the owner of the North Estate the Local Authority may claim from him one-half of such increase in value, and the amount of such increase, whether decided by agreement or arbitration, is payable to the Local Authority.

The whole of the negotiations are, of course, subject to the consent of the Local Government Board.
- (f) Assuming that the owner of the South Estate proves that his land would be injuriously affected by "linking up," owing to the adjoining property being of less value, the Local Authority might impose a restriction on the plots marked B and possibly B' of a similar value to the property to be erected on A, and perhaps with a graduated restriction beyond.
- (g) The Local Authority may agree with the owner of the South Estate to allow certain roads (shown as 30ft. 0in. in width on plan) to be of less width than that required under the bye-laws of the district, because their position being definitely agreed, it is assumed they would not at any time become main or even secondary traffic routes. In this case the owner would save a

PLATE 5.

Illustrating some of the possible effects of the provisions of the Town Planning Part of the 1909 Act upon the lay-out of Building Estates.



considerable sum of money in road construction. It may be that this concession would be taken into account in awarding compensation for linking up; in other words, it would give the Local Authority a "bargaining power" in dealing with matters relating to compensation.

- (h) The Local Authority may, on the land fronting these roads, impose building lines in order to prevent the distance between the fronts of the houses being less than it would have been had the roads been constructed of the width required by the local bye-laws.

So far we have not entered into the complications due to drainage difficulties.

The levels marked on the plan show that the whole of the North Estate cannot be drained into the Parish Road by gravitation; but if the connecting road nearest the railway were made, the sewer could be taken under this and so join up with the sewer in the South Estate, which has a natural fall to the sewer in Main Road near the station.

It may be assumed that a 9in. sewer would be sufficient to drain the South Estate, whereas if the sewer is to drain a portion of the North Estate a larger diameter might be necessary.

Such conditions would probably form the subject of compensation to the owner of the South Estate in respect of the extra cost consequent upon the increased diameter of sewer in Station Road. The compensation would indirectly be obtained from the owner of the North Estate.

It must be clearly understood that the preceding remarks apply to only one particular case, and that a large number of varying cases will readily suggest themselves where the compensation, apportionments, adjustments, etc., will be of a most complicated character.

Explanation of Example shown on

PLATE 6.

THE diagram shown in the Plate represents an area of land on both sides of an existing main road.

The Local Authority have prepared a scheme under the Town Planning Part of the Act of 1909. Under the scheme a certain area is to be left as an open space or recreation ground as shown. It is assumed that the site of the open space is situated on a building estate which is being actively developed. The Local Authority, in this example, at once purchase the land comprising the open space either by agreement or otherwise.

The true market value is paid, which is, say, £500 per acre, or a total purchase price of £8,035.

The position is now as follows :—

The land, immediately prior to the purchase and before the scheme was made, was worth, say, £500 per acre, while the land adjoining the same and fronting the intended new roads might be valued at £3 per foot, after deducting the estimated cost of road-making charges, etc.

Immediately after the making of the scheme the value has increased to, say, £5 per foot, showing an increase of £2 per foot. The whole of this increase may, and probably would, be attributed entirely to the presence of the open space. Taking the building frontage immediately affected by the open space as 870 + 690 + 880, or 2,440 feet, the amount payable to the Local Authority will be £2,440. It may be that the plots marked A will also come under the operation of the betterment clause in the Act, probably on a graduated basis. The remaining plots may, or may not, be considered as being worth more after the making of the scheme.

The betterment principle will also apply to at least 580ft. on the land fronting the open space but situated on the opposite side of the main road, and in this case one-half of the increase in value may also be assessed at £1 per foot frontage, or a total of £580.

This (excluding any sum, if any, due from the plots marked A) amounts to £3,020.

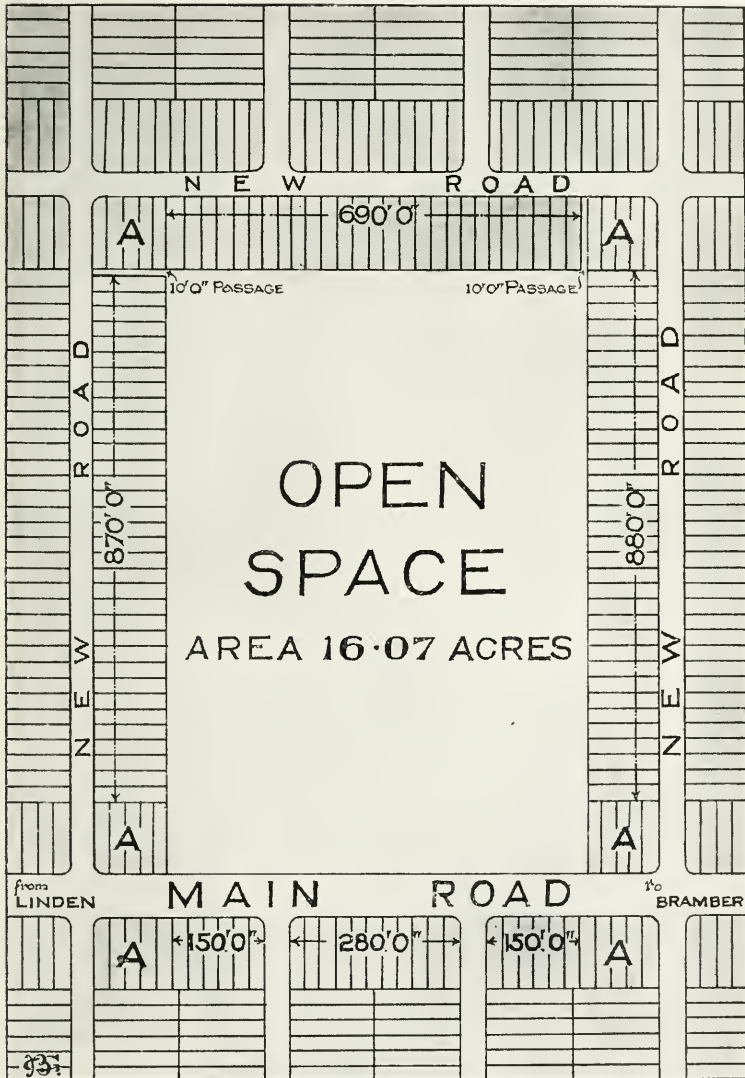
In other words, instead of the land for the open space costing the rate-payers £8,035, it will only cost them £5,595, or at the rate of about £348 per acre.

The example stated above is only mentioned to show the principle laid down in the Act, and each case will, of course, have to be dealt with on its merits.

It frequently happens that owners are willing to sell their land for purposes of recreation grounds, etc., in order to secure the advantage of erecting buildings fronting or backing on to the open space. In such cases an owner may, under the Act, make it a condition that the Local Authority shall not claim any part of the increment arising from the presence of such open space.

PLATE 6.

Diagram showing how owners are affected whose land adjoins, or is near to, an open space which is reserved as such under a Town-Planning Scheme.



APPENDICES.

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APPENDIX A.

Housing, Town Planning, &c. Act, 1909.

(9 EDW. 7, CH. 44.)

An Act to amend the Law relating to the Housing of the Working Classes, to provide for the making of Town Planning schemes, and to make further provision with respect to the appointment and duties of County Medical Officers of Health, and to provide for the establishment of Public Health and Housing Committees of County Councils. [3rd December, 1909.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

HOUSING OF THE WORKING CLASSES.

Facilities for Acquisition of Lands and other Purposes of the Housing Acts.

Re-
ferred
to on
pages

1. Part III. of the Housing of the Working Classes Act, 1890 (in this Part of this Act referred to as the principal Act), shall, after the commencement of this Act, extend to and take effect in every urban or rural district, or other place for which it has not been adopted, as if it had been so adopted.

64

2.—(1) A local authority may be authorised to purchase land compulsorily for the purposes of Part III. of the principal Act, by means of an order submitted to the Local Government Board and confirmed by the Board in accordance with the First Schedule to this Act.

65
132

Part III. of the principal Act to take effect without adoption.
53 & 54 Vict., c. 70.

Provisions as to acquisition of land under Part III. of the principal Act.

(2) The procedure under this section for the compulsory purchase of land shall be substituted for the procedure for the same purpose under section one hundred and seventy-six of the Public Health Act, 1875, as applied by subsection (1) of section fifty-seven of the principal Act. 38 & 39 Vict., c. 55.

65 (3) A local authority may, with the consent of and subject to any conditions imposed by the Local Government Board, acquire land by agreement for the purposes of Part III. of the principal Act, notwithstanding that the land is not immediately required for those purposes.

92 **3.** Where a loan is made by the Public Works Loan Commissioners to a local authority for any purposes of the Housing Acts— Loans by Public Works Loan Commissioners to local authorities.

(a) The loan shall be made at the minimum rate allowed for the time being for loans out of the Local Loans Fund; and

(b) If the Local Government Board make a recommendation to that effect, the period for which the loan is made by the Public Works Loan Commissioners may exceed the period allowed under the principal Act or under any other Act limiting the period for which the loan may be made, but the period shall not exceed the period recommended by the Local Government Board, nor in any case eighty years; and

(c) As between loans for different periods, the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.

78 **4.—(1)** Where a loan is made by the Public Works Loan Commissioners under section sixty-seven, subsection (2) (d), of the principal Act, to a public utility society, the words “two-thirds” shall be substituted for the words “one moiety.” Loans by Public Works Loan Commissioners to public utility societies.

78 (2) For the purposes of this section a public utility society means a society registered under the Industrial

55 & 57 Vict.,
c. 39.

and Provident Societies Act, 1893, or any amendment thereof, the rules whereof prohibit the payment of any interest or dividend at a rate exceeding five pounds per centum per annum.

Payment of
purchase or
compensation
money (which
would otherwise
be paid into
court) on direc-
tion of Local
Government
Board.

5.—(1) Any purchase money or compensation payable in pursuance of the Housing Acts by a local authority in respect of any lands, estate, or interest of another local authority which would, but for this section, be paid into court in manner provided by the Lands Clauses Acts or by paragraph (20) of the Second Schedule to the principal Act may, if the Local Government Board consent, instead of being paid into court, be paid and applied as the Board determine. 83
132

(2) Any such decision of the Board as to the payment and application of any such purchase money or compensation shall be final and conclusive. 83
132

Provision of
public streets in
connexion with
exercise of
powers under
Part III. of the
principal Act.

6. Any local authority in connexion with the exercise by them of their powers under Part III. of the principal Act may lay out and construct public streets or roads on any land acquired or appropriated by them for the purpose of that Part of that Act, or contribute towards the cost of the laying out and construction of any streets or roads on any such land by other persons on the condition that those streets or roads are to be dedicated to the public. 69

Expenditure
of money for
housing pur-
poses in case of
settled land.

7.—(1) The following paragraph shall be substituted for paragraph (b) of subsection (1) of section seventy-four of the principal Act :— 90

(b) The improvements on which capital money arising under the Settled Land Act, 1882, may be expended, enumerated in section twenty-five of the said Act and referred to in section thirty of the said Act, shall, in addition to cottages for labourers, farm servants, and artisans, whether employed on the settled land or not, include the provision of dwellings available for the working classes, either by means of building new buildings or by means of the reconstruction,

45 & 46 Vict.,
c. 38.

enlargement, or improvement of existing buildings, so as to make them available for the purpose, if that provision of dwellings is, in the opinion of the court, not injurious to the estate or is agreed to by the tenant for life and the trustees of the settlement.

- 91 (2) The provision by a tenant for life, at his own expense, of dwellings available for the working classes on any settled land shall not be deemed to be an injury to any interest in reversion or remainder in that land; provided that the powers conferred upon a tenant for life by this subsection shall not be exercised by him without the previous approval in writing of the trustees of the settlement.

- 78 8. A local authority may accept a donation of land
86 or money or other property for any of the purposes
49 of the Housing Acts, and it shall not be necessary to
65 enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888.

Donations
for housing
purposes.

51 & 52 Vict.
c. 42.

- 82 9.—(1) If in any case it appears to the Local Government Board that the institution of legal proceedings is requisite or desirable with respect to any property required to be applied under any trusts for the provision of dwellings available for the working classes, or that the expediting of any such legal proceedings is requisite or desirable, the Board may certify the case to the Attorney-General, and the Attorney-General, if he thinks fit, shall institute any legal proceedings or intervene in any legal proceedings already instituted in such manner as he thinks proper under the circumstances.

Provisions
with respect to
money applic-
able under trusts
for housing
purposes.

- 83 (2) Before preparing any scheme with reference to property required to be applied under any trusts for the provision of dwellings available for the working classes, the court or body who are responsible for making the scheme shall communicate with the Local Government Board and receive and consider any recommendations made by the Board with reference to the proposed scheme.

Powers of enforcing Execution of Housing Acts.

Power of Local
Government
Board on
complaint to
enforce exercise
of powers.

10.—(1) Where a complaint is made to the Local Government Board— 57
72

- (a) as respects any rural district by the council of the county in which the district is situate, or by the parish council or parish meeting of any parish comprised in the district, or by any four inhabitant householders of the district ; or
- (b) as respects any county district, not being a rural district, by the council of the county in which the district is situated, or by four inhabitant householders of the district ; or
- (c) as respects the area of any other local authority by four inhabitant householders of the area ;

that the local authority have failed to exercise their powers under Part II. or Part III. of the principal Act in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held, and if, after holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, the Board may declare the authority to be in default, and may make an order directing that authority, within a time limited by the order, to carry out such works and do such other things as may be mentioned in the order for the purpose of remedying the default.

(2) Before deciding that a local authority have failed to exercise their powers under Part III. of the principal Act, the Board shall take into consideration the necessity for further accommodation for the housing of the working classes in such district, the probability that the required accommodation will not be otherwise provided, and the other circumstances of the case, and whether, having regard to the liability which will be incurred by the rates, it is prudent for the local authority to undertake the provision of such accommodation. 73

- 58 (3) Where an order originally made under this section on the council of a county district is not complied with by that council, the Local Government Board may, if they think fit, with the consent of the county council, instead of enforcing that order against the council of the county district, make an order directing the county council to carry out any works or do any other things which are mentioned in the original order for the purpose of remedying the default of the district council.
- 58 (4) Where the Board make an order under this section directing a county council to carry out any works or do any other thing, the order may, for the purpose of enabling the county council to give effect to the order, apply any of the provisions of the Housing Acts or of section sixty-three of the Local Government Act, 1894, with such modifications or adaptations (if any) as appear necessary or expedient. 56 & 57 Vict. c. 73.
- 59 (5) An order made by the Local Government Board under this section shall be laid before both Houses of Parliament as soon as may be after it is made.
- 59 (6) Any order made by the Local Government Board under this section may be enforced by mandamus.
- 31 11.—(1) Where it appears to the Local Govern- Power of Local
Government
Board to order
schemes, &c.,
to be carried
out within a
limited time.
47 ment Board that a local authority have failed to perform their duty under the Housing Acts of carrying out an improvement scheme under Part I. of the principal Act, or have failed to give effect to any order as respects an obstructive building, or to a reconstruction scheme, under Part II. of that Act, or have failed to cause to be made the inspection of their district required by this Act, the Board may make an order requiring the local authority to remedy the default and to carry out any works or do any other things which are necessary for the purpose under the Housing Acts within a time fixed by the order.

(2) Any order made by the Local Government Board under this section may be enforced by mandamus.

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Powers of county councils to act in default of rural district council under Part III. of the principal Act.

12. Where a complaint is made to the council of a county by the parish council or parish meeting of any parish comprised in any rural district in the county, or by any four inhabitant householders of that district, the county council may cause a public local inquiry to be held, and if, after holding such an inquiry, the county council are satisfied that the rural district council have failed to exercise their powers under Part III. of the principal Act in cases where those powers ought to have been exercised, the county council may resolve that the powers of the district council for the purposes of that Part be transferred to the county council with respect either to the whole district or to any parish in the district, and those powers shall be transferred accordingly, and, subject to the provisions of this Act, section sixty-three of the Local Government Act, 1894, shall apply as if the powers had been transferred under that Act.

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Power of county council to exercise powers of rural district council under Part III. of the principal Act.

13.—(1) Where the council of a county are of opinion that for any reason it is expedient that the council should exercise, as respects any rural district in the county, any of the powers of a local authority under Part III. of the principal Act, the council, after giving notice to the council of the district of their intention to do so, may apply to the Local Government Board for an order conferring such powers on them.

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(2) Upon such an application being made, the Board may make an order conferring on the county council as respects the rural district all or any of the powers of a local authority under Part III. of the principal Act, and thereupon the provisions of the Housing Acts relating to those powers (including those enabling the Public Works Loan Commissioners to lend, and fixing the terms for which money may be lent and borrowed) shall apply as if the council were

a local authority under Part III. of the principal Act : Provided that the expenses incurred by the county council under any such order shall be defrayed as expenses for general county purposes.

(3) Where, under any such order, the county council have executed any works in a rural district they may transfer the works to the council of that district on such terms and subject to such conditions as may be agreed between them.

Contracts by Landlord.

105 **14.** In any contract made after the passing of this Act for letting for habitation a house or part of a house at a rent not exceeding—

Extension of section 75 of the principal Act.

- (a) in the case of a house situate in the administrative county of London, forty pounds ;
- (b) in the case of a house situate in a borough or urban district with a population according to the last census for the time being of fifty thousand or upwards, twenty-six pounds ;
- (c) in the case of a house situate elsewhere, sixteen pounds ;

there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation, but the condition aforesaid shall not be implied when a house or part of a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for occupation, and the lease is not determinable at the option of either party before the expiration of that term.

105 **15.—(1)** The last foregoing section shall, as respects contracts to which that section applies, take effect as if the condition implied by that section included an undertaking that the house shall, during the holding, be kept by the landlord in all respects reasonably fit for human habitation.

Condition as to keeping houses let to persons of the working classes in repair.

(2) The landlord or the local authority, or any 106
person authorised by him or them in writing, may at
reasonable times of the day, on giving twenty-four
hours' notice in writing to the tenant or occupier,
enter any house, premises, or building to which this
section applies for the purpose of viewing the state
and condition thereof.

(3) If it appears to the local authority within the 106
meaning of Part II. of the principal Act that the
undertaking implied by virtue of this section is not
complied with in the case of any house to which it
applies, the authority shall, if a closing order is not
made with respect to the house, by written notice
require the landlord, within a reasonable time, not
being less than twenty-one days, specified in the
notice, to execute such works as the authority shall
specify in the notice as being necessary to make the
house in all respects reasonably fit for human habita-
tion.

(4) Within twenty-one days after the receipt of 106
such notice the landlord may by written notice to the
local authority declare his intention of closing the
house for human habitation, and thereupon a closing
order shall be deemed to have become operative in
respect of such house.

(5) If the notice given by the local authority is 107
not complied with, and if the landlord has not given
the notice mentioned in the immediately preceding
subsection, the authority may, at the expiration of
the time specified in the notice given by them to the
landlord, do the work required to be done and recover
the expenses incurred by them in so doing from the
landlord as a civil debt in manner provided by
the Summary Jurisdiction Acts, or, if they think
fit, the authority may by order declare any such
expenses to be payable by annual instalments within
a period not exceeding that of the interest of the
landlord in the house, nor in any case five years,
with interest at a rate not exceeding five pounds per
cent. per annum, until the whole amount is paid,
and any such instalments or interest or any part

thereof may be recovered from the landlord as a civil debt in manner provided by the Summary Jurisdiction Acts.

107 (6) A landlord may appeal to the Local Government Board against any notice requiring him to execute works under this section, and against any demand for the recovery of expenses from him under this section or order made with respect to those expenses under this section by the authority, by giving notice of appeal to the Board within twenty-one days after the notice is received, or the demand or order is made, as the case may be, and no proceedings shall be taken in respect of such notice requiring works, order, or demand, whilst the appeal is pending.

107 (7) In this section the expression "landlord" means any person who lets to a tenant for habitation the house under any contract referred to in this section, and includes his successors in title; and the expression "house" includes part of a house.

108 (8) Sections forty-nine and fifty of the principal Act as amended by section thirteen of the Housing of the Working Classes Act, 1903 (which relate to the service of notices and the description of owner in proceedings), shall apply for the purposes of this section, with the substitution, where required, of the landlord for the owner of a dwelling-house.

Edw 7, c. 39.

108 (9) Any remedy given by this section for non-compliance with the undertaking implied by virtue of this section shall be in addition to and not in derogation of any other remedy available to the tenant against the landlord, either at common law or otherwise.

86 16.—(1) The power of making and enforcing bye-laws under section ninety of the Public Health Act, 1875, and section ninety-four of the Public Health (London) Act, 1891, with respect to houses or parts of houses which are let in lodgings or occupied by members of more than one family, shall, in the case of houses intended for the working classes, extend to the making and enforcing of byelaws imposing any

Extension of
power of making
bye-laws with
respect to
lodging-houses
for the working
classes.
54 & 55 Vict.,
c. 76.

duty (being a duty which may be imposed by the byelaws and which involves the execution of work) upon the owner within the meaning of the said Acts, in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions in and subject to which any such duty is to be discharged.

(2) For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises, and section fifty-one of the principal Act shall apply as if for the reference to the provisions of Part II. of that Act there were substituted a reference to the provisions of such byelaws, and as if the person on whom such duty is imposed were the owner and any inmate of the premises were the occupier of a dwelling-house. 87

(3) Where an owner or other person has failed to execute any work which he has been required to execute under the byelaws, the local authority or sanitary authority, as the case may be, may, after giving to him not less than twenty-one days' notice in writing, themselves execute the works and recover the costs and expenses, and for that purpose the provisions of subsection (5) of the last foregoing section, with respect to the execution of works and the recovery of expenses by local authorities, shall apply as if the owner or other person were the landlord, and with such other adaptations as may be necessary. 87

*Amendment of Procedure for Closing Orders and
Demolition Orders.*

Duty of local
authority as to
closing of
dwelling-house
unfit for human
habitation.

17.—(1) It shall be the duty of every local authority within the meaning of Part II. of the principal Act to cause to be made from time to time inspection of their district, with a view to ascertain whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and for that purpose it shall be the duty of the local authority, and of every officer 37
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of the local authority, to comply with such regulations and to keep such records as may be prescribed by the Board.

- 37 (2) If, on the representation of the medical officer of health, or of any other officer of the authority, or other information given, any dwelling-house appears to them to be in such a state, it shall be their duty to make an order prohibiting the use of the dwelling-house for human habitation (in this Act referred to as a closing order) until in the judgment of the local authority the dwelling-house is rendered fit for that purpose.
- 37 (3) Notice of a closing order shall be forthwith served on every owner of the dwelling-house in respect of which it is made, and any owner aggrieved by the order may appeal to the Local Government Board by giving notice of appeal to the Board within fourteen days after the order is served upon him.
- 38 (4) Where a closing order has become operative, the local authority shall serve notice of the order on every occupying tenant of the dwelling-house in respect of which the order is made, and, within such period as is specified in the notice, not being less than fourteen days after the service of the notice, the order shall be obeyed by him, and he and his family shall cease to inhabit the dwelling-house, and in default he shall be liable on summary conviction to be ordered to quit the dwelling-house within such time as may be specified in the order.
- 38 (5) Unless the dwelling-house has been made unfit for habitation by the wilful act or default of the tenant or of any person for whom as between himself and the owner or landlord he is responsible, the local authority may make to every such tenant such reasonable allowance on account of his expense in removing as may be determined by the local authority with the consent of the owner of the dwelling house, or, if the owner of the dwelling-house fails to consent to the sum determined by the local authority, as may be fixed by a court of summary jurisdiction, and the amount of the said allow-

ance shall be recoverable by the local authority from the owner of the dwelling-house as a civil debt in manner provided by the Summary Jurisdiction Acts.

(6) The local authority shall determine any closing order made by them if they are satisfied that the dwelling-house, in respect of which the order has been made, has been rendered fit for human habitation. 38

If, on the application of any owner of a dwelling-house, the local authority refuse to determine a closing order, the owner may appeal to the Local Government Board by giving notice of appeal to the Board within fourteen days after the application is refused. 39

(7) A room habitually used as a sleeping place, the surface of the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, shall for the purposes of this section be deemed to be a dwelling-house so dangerous or injurious to health as to be unfit for human habitation, if the room either-- 110

- (a) is not on an average at least seven feet in height from floor to ceiling; or
- (b) does not comply with such regulations as the local authority with the consent of the Local Government Board may prescribe for securing the proper ventilation and lighting of such rooms, and the protection thereof against dampness, effluvia, or exhalation: Provided that if the local authority, after being required to do so by the Local Government Board, fail to make such regulations, or such regulations as the Board approve, the Board may themselves make them, and the regulations so made shall have effect as if they had been made by the local authority with the consent of the Board:

Provided that a closing order made in respect of a room to which this subsection applies shall not

prevent the room being used for purposes other than those of a sleeping place ; and that, if the occupier of the room after notice of an order has been served upon him fails to comply with the order, an order to comply therewith may, on summary conviction, be made against him.

This subsection shall not come into operation until the first day of July nineteen hundred and ten, and a closing order made in respect of any room to which this subsection applies shall not be treated as a closing order in respect of a dwelling-house for the purposes of the next succeeding section.

- 39 **18.**—(1) Where a closing order in respect of any dwelling house has remained operative for a period of three months, the local authority shall take into consideration the question of the demolition of the dwelling-house, and shall give every owner of the dwelling-house notice of the time (being some time not less than one month after the service of the notice) and place at which the question will be considered, and any owner of the dwelling-house shall be entitled to be heard when the question is so taken into consideration. Order for demolition.
- 39 (2) If upon any such consideration the local authority are of opinion that the dwelling-house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, or that the continuance of any building, being or being part of the dwelling-house, is a nuisance or dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses, they shall order the demolition of the building.
- 39 (3) If any owner undertakes to execute forthwith the works necessary to render the dwelling-house fit for human habitation, and the local authority consider that it can be so rendered fit for human habitation, the local authority may, if they think fit, postpone the operation of the order for such time,

not exceeding six months, as they think sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

(4) Notice of an order for the demolition of a building shall be forthwith served on every owner of the building in respect of which it is made, and any owner aggrieved by the order may appeal to the Local Government Board by giving notice of appeal to the Board within twenty-one days after the order is served upon him. 39

Power to
redeem
annuities
charged by
charging order
under section 36
of the principal
Act.

19. Any owner of or other person interested in a dwelling-house on which an annuity has been charged by a charging order made under section thirty-six of the principal Act (which relates to the grant of charges) shall at any time be at liberty to redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon, or in default of agreement determined by the Local Government Board. 41

Provision as to
priority of
charges under
section 37 of the
principal Act.

20. The charges excepted in subsection (1) of section thirty-seven of the principal Act (which relates to the incidence of charges) shall include charges on the dwelling-house created or arising under any provision of the Public Health Acts, or under any provision in any local Act authorising a charge for recovery of expenses incurred by a local authority. 41

Restriction on
power of court
of summary
jurisdiction to
extend time.

21. Subsection (3) of section forty-seven of the principal Act (which gives power to a court of summary jurisdiction to enlarge the time for certain matters) shall cease to have effect as respects the time allowed for the execution of any works or the demolition of a building under a closing order or under an order for the demolition of a building. 60

Amendments with respect to Improvement and Reconstruction Schemes.

Amendment of
section 4 of the
principal Act
as to official
representation.

22. In section four of the principal Act (which relates to an official representation), the words "that the most satisfactory method of dealing with the 16

“evils connected with such houses, courts, or alleys, and the sanitary defects in such area is an improvement scheme” shall be substituted for the words “that the evils connected with such houses, courts, or alleys, and the sanitary defects in such area cannot be effectually remedied otherwise than by means of an improvement scheme.”

- 17 **23.**—(1) Section six of the principal Act (which relates to the contents of an improvement scheme) shall be read as if in subsection (1) the words “for sanitary purposes” were omitted in paragraph (a); and as if the following paragraph was inserted at the end of that subsection:—

Amendment of the principal Act as to contents of schemes.

“ and

(c) may provide for any other matter (including the closing and diversion of highways) for which it seems expedient to make provision with a view to the improvement of the area or the general efficiency of the scheme.”

- 48 (2) Provision may be made in a reconstruction scheme under Part II. of the principal Act for any matters for which provision may be made in an improvement scheme made under Part I. of that Act.

24.—(1) Paragraphs (a) and (b) of subsection (2) of section five of the Housing of the Working Classes Act, 1903 (which limit the cases under which an order confirming an improvement scheme takes effect without confirmation by Parliament), shall cease to have effect.

Amendment of 3 Edw. 7, c. 39, s. 5.

- 48 (2) An order of the Local Government Board sanctioning a reconstruction scheme, and authorising the compulsory purchase of land for the purpose shall, notwithstanding anything in section thirty-nine of the principal Act, take effect without confirmation.

- 27 **25.** The Local Government Board may, in the exercise of their powers under section fifteen or subsection (9) of section thirty-nine of the principal

Modification of schemes.

Act, permit the local authority to modify their scheme, not only by the abandonment of any part of the scheme which it may appear inexpedient to carry into execution, but also by amending or adding to the scheme in matters of detail in such manner as appears expedient to the Board.

Inquiries by
Local Govern-
ment Board
inspectors as to
unhealthy areas.

26. Any inspector or officer of the Local Government Board, or any person employed by the Board, may be directed to make any inspection or inquiry which is required for the purposes of section sixteen of the principal Act (which relates to inquiries made on the default of a medical officer), and section eighty-five of that Act (which relates to inquiries by the Local Government Board), as amended by this Act, shall apply as respects any inspection or inquiry so held as it applies to local inquiries held under that section.

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Amendment as
to the vesting of
water pipes, &c.

27. An improvement scheme under Part I. of the principal Act may, with the consent of the person or body of persons entitled to any right or easement which would be extinguished by virtue of section twenty-two of the principal Act, provide for any exceptions, restrictions, or modifications in the application to that right or easement of that section, and that section shall take effect subject to any such exceptions, restrictions, or modifications.

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Amendment of
section 38 of the
principal Act as
to distribution
of compensation
money and as to
betterment
charges.

28.—(1) The amount of any compensation payable under section thirty-eight of the principal Act (which relates to obstructive buildings) shall, when settled by arbitration in manner provided by that section, be apportioned by the arbitrator between any persons having an interest in the compensation in such manner as the arbitrator determines.

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(2) The power of the arbitrator to apportion compensation under the foregoing provision and to apportion any part of the compensation to be paid for the demolition of an obstructive building amongst other buildings under subsection (8) of the said section thirty-eight may be exercised in cases where the amount to be paid for compensation has been

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settled, otherwise than by arbitration under the principal Act, by an arbitrator appointed for the special purpose, on the application of the local authority, by the Local Government Board, and the provisions of that Act shall apply as if the arbitrator so appointed had been appointed as arbitrator to settle the amount to be paid for compensation.

- 24 29.** For removing doubts it is hereby declared
51 that a local authority may tender evidence before an arbitrator to prove the facts under the headings (first) (secondly) (thirdly) mentioned in subsection (2) of section twenty-one and subsection (3) of section forty-one of the principal Act, notwithstanding that the local authority have not taken any steps with a view to remedying the defects or evils disclosed by the evidence.

Explanation of sections 21 (2) and 41 (3) of the principal Act.

Amendments with respect to Financial Matters.

- 28 30.** No deficiency in the Dwelling-house Improve-
ment Fund shall be supplied under subsection (2) of section twenty-four of the principal Act out of borrowed money unless the deficiency arises in respect of money required for purposes to which borrowed money is, in the opinion of the Local Government Board, properly applicable.
- 76 31.** The expenses incurred by a rural district
77 council after the passing of this Act in the execution of Part III. of the principal Act shall be defrayed as general expenses of the council in the execution of the Public Health Acts, except so far as the Local Government Board on the application of the council declare that any such expenses are to be levied as special expenses charged on specified contributory places, or as general expenses charged on specified contributory places, in the district, in such proportions as the district council may determine, to the exclusion of other parts of the district, and a rural district council may borrow for the purposes of Part III. of the principal Act in like manner and

Amendment as to application of money borrowed for the purpose of the Dwelling-house Improvement Fund.

Expenses of rural district council under Part III. of the principal Act.

subject to the like conditions as for the purpose of defraying the above-mentioned general or special expenses.

(2) The district council shall give notice to the overseers of any contributory place proposed to be charged of any apportionment made by them under this section, and the overseers, if agreed by the apportionment, may appeal to the Local Government Board by giving notice of appeal to the Board within twenty-one days after notice has been so given of the apportionment. 76

Application of
proceeds of land
sold under Part
III. of the
principal Act.

32. Where any land vested in a local authority for the purposes of Part III. of the principal Act is sold under section sixty of that Act (which relates to the sale and exchange of lands), the proceeds may be applied not only as provided by that section, but also for any purpose, including repayment of borrowed money, for which capital money may be applied, and which is approved by the Local Government Board. 70

Mode in which
contributions by
London borough
councils to the
County Council
or vice versa
may be made.

33. Any payment or contribution agreed or ordered to be made under subsection (6) or (7) of section forty-six of the principal Act, as amended by section fourteen of the Housing of the Working Classes Act, 1903 (which relate to payments or contributions by borough councils towards the expenses of the county council or by the county council towards the expenses of borough councils in London), may be made either by means of the payment of a lump sum or by means of an annual payment of such amount and for such number of years as may be agreed upon or ordered. 53 54

Exemption
from section
133 of 8 & 9
Vict., c. 18.

34. Section one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845 (relating to Land Tax and poor rate), shall not apply in the case of any lands of which a local authority becomes possessed by virtue of the Housing Acts. 88

Exemption of
lodging-houses
for the working
classes from
Inhabited
House Duty.

35.—(1) The assessment to Inhabited House Duty of any house occupied for the sole purpose of letting lodgings to persons of the working classes, at a charge of not exceeding sixpence a night for each 75

person, shall be discharged by the Commissioners acting in the execution of the Acts relating to the Inhabited House Duties, upon the production of a certificate to the effect that the house is solely constructed and used to afford suitable accommodation for the lodgers, and that due provision is made for their sanitary requirements.

(2) The provisions of subsection (2) of section twenty-six of the Customs and Inland Revenue Act, 1890, in relation to the certificate mentioned therein, shall, so far as applicable, apply to the certificate to be produced under this section. 53 & 54 Vict., c. 8.

General Amendments.

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¹⁰³ **36.** Any person authorised in writing stating the particular purpose or purposes for which the entry is authorised, by the local authority or the Local Government Board, may at all reasonable times, on giving twenty-four hours' notice to the occupier and to the owner, if the owner is known, of his intention, enter any house, premises, or buildings— Power of entry.

- (a) for the purpose of survey or valuation, in the case of houses, premises, or buildings which the local authority are authorised to purchase compulsorily under the Housing Acts; and
- (b) for the purpose of survey and examination, in the case of any dwelling-house in respect of which a closing order or an order for demolition has been made; or
- (c) for the purpose of survey and examination, where it appears to the authority or Board that survey or examination is necessary in order to determine whether any powers under the Housing Acts should be exercised in respect of any house, premises or building.

Notice may be given to the occupier for the purposes of this section by leaving a notice addressed to the occupier, without name or further description, at the house, buildings, or premises.

Power of Local
Government
Board to obtain
a report on any
crowded area.

37. If it appears to the Local Government Board 80 that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area with a view to determining whether any powers under the Housing Acts should be put into force in that area or not, the Local Government Board may require the local authority to make a report to them containing such particulars as to the population of the district and other matters as they direct, and the local authority shall comply with the requirement of the Local Government Board, and any expenses incurred by them in so doing shall be paid as expenses incurred in the execution of such Part of the principal Act as the Local Government Board determine.

Joint action
by local
authorities.

38. Where, upon an application made by one of 84 the local authorities concerned, the Local Government Board are satisfied that it is expedient that any local authorities should act jointly for any purposes of the Housing Acts, either generally or in any special case, the Board may by order make provision for the purpose, and any provisions so made shall have the same effect as if they were contained in a provisional order made under section two hundred and seventy-nine of the Public Health Act, 1875, for the formation of a united district.

Appeals to
Local Govern-
ment Board.

39.—(1) The procedure on any appeal under this 81 Part of this Act, including costs, to the Local Government Board shall be such as the Board may by rules determine, and on any such appeal the Board may make such order in the matter as they think equitable, and any order so made shall be binding and conclusive on all parties, and, where the appeal is against any notice, order, or apportionment given or made by the local authority, the notice,

order, or apportionment may be confirmed, varied, or quashed, as the Board think just.

Provided that—

- (a) the Local Government Board may at any stage of the proceedings on appeal, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the court any question of law arising in the course of the appeal; and
- (b) the rules shall provide that the Local Government Board shall not dismiss any appeal without having first held a public local inquiry.

(2) Any notice, order, or apportionment as respects which an appeal to the Local Government Board is given under this Part of this Act shall not become operative, until either the time within which an appeal can be made under this Part of this Act has elapsed without an appeal being made, or, in case an appeal is made, the appeal is determined or abandoned, and no work shall be done or proceedings taken under any such notice, order, or apportionment, until it becomes operative.

(3) The Local Government Board may, before considering any appeal which may be made to them under this Part of this Act, require the appellant to deposit such sum to cover the costs of the appeal as may be fixed by the rules made by them with reference to appeals.

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⁸⁸ **40.** Notwithstanding anything contained in the principal Act it shall not be obligatory upon a local authority to sell and dispose of any lands or dwellings acquired or constructed by them for any of the purposes of the Housing Acts. Sale and disposal of dwellings.

83 41.—(1) The Local Government Board may by order prescribe the form of any notice, advertisement, or other document, to be used in connection with the powers and duties of a local authority or of the Power to prescribe forms and to dispense with advertisements and notices.

Board under the Housing Acts, and the forms so prescribed, or forms as near thereto as circumstances admit, shall be used in all cases to which those forms are applicable.

(2) The Local Government Board may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under the Housing Acts, if they are satisfied that there is reasonable cause for the dispensing with the publication or service.

(3) Any such dispensation may be given by the Local Government Board either before or after the time at which the advertisement is required to be published or the notice is required to be served, and either unconditionally or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Board think fit, due care being taken by the Board to prevent the interests of any person being prejudiced by the dispensation.

Provision as to
publication in
London
Gazette.

42. Where under the Housing Acts, any scheme or order or any draft scheme or order is to be published in the London Gazette, or notice of any such scheme or order or draft scheme or order is to be given in the London Gazette, it shall be sufficient in lieu of such publication or notice to insert a notice giving short particulars of the scheme, order, or draft, and stating where copies thereof can be inspected or obtained in two local newspapers circulating in the area affected by the scheme, order, or draft, or to give notice thereof in such other manner as the Local Government Board determine. 88

Prohibition of
back-to-back
houses.

43. Notwithstanding anything in any local Act or byelaw in force in any borough or district, it shall not be lawful to erect any back-to-back houses intended to be used as dwellings for the working classes, and any such house commenced to be erected after the passing of this Act shall be deemed to be 109

unfit for human habitation for the purposes of the provisions of the Housing Acts.

Provided that nothing in this section—

- (a) shall prevent the erection or use of a house containing several tenements in which the tenements are placed back to back, if the medical officer of health for the district certifies that the several tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement ; or
- (b) shall apply to houses abutting on any streets the plans whereof have been approved by the local authority before the first day of May nineteen hundred and nine, in any borough or district in which, at the passing of this Act, any local Act or byelaws are in force permitting the erection of back-to-back houses.

84 **44.** If the Local Government Board are satisfied, by local inquiry or otherwise, that the erection of dwellings for the working classes within any borough, or urban or rural district, is unreasonably impeded in consequence of any byelaws with respect to new streets or buildings in force therein, the Board may require the local authority to revoke such byelaws or to make such new byelaws as the Board may consider necessary for the removal of the impediment. If the local authority do not within three months after such requisition comply therewith, the Board may themselves revoke such byelaws, and make such new byelaws as they may consider necessary for the removal of the impediment, and such new byelaws shall have effect as if they had been duly made by the local authority and confirmed by the Board.

Power to Local Government Board to revoke unreasonable byelaws.

62 **45.** Nothing in the Housing Acts shall authorise
86 the acquisition for the purposes of those Acts of any
135 land which is the site of an ancient monument or

Saving of sites of ancient monuments, &c.

53 & 54 Vict.,
c. 70.

other object of archæological interest, or the compulsory acquisition for the purposes of Part III. of the Housing of the Working Classes Act, 1890, of any land which is the property of any local authority or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or which at the date of the order forms part of any park, garden, or pleasure ground, or is otherwise required for the amenity or convenience of any dwelling-house.

Minor
amendments of
Housing Acts.

46. The amendments specified in the second column of the Second Schedule to this Act, which relate to minor details, shall be made in the provisions of the Housing Acts specified in the first column of that Schedule, and section sixty-three of the principal Act (which relates to the disqualification of tenants of lodging-houses on receiving poor relief) shall be repealed.

Definitions.

Provisions of
this Part to be
deemed to be
part of the
appropriate
Part of the
principal Act.

47.—(1) Any provision of this Act which supersede or amend any provisions of the principal Act shall be deemed to be part of that Part of the principal Act in which the provisions superseded or amended are contained.

(2) Any reference in the Housing Acts to a closing order or to an order for the demolition of a building shall be construed as a reference to a closing order or an order of demolition under this Act. 37

Amendment of
definitions in
Part I. of the
principal Act.

48. The expression "street" shall, unless the context otherwise requires, have the same meaning in Part I. of the principal Act as it has in Part II. of that Act, and shall include any court, alley, street, square, or row of houses. 15

Amendment of
definitions for
purpose of
Part II. of the
principal Act.

49.—(1) The words "means any inhabited building and" shall be omitted from the definition of "dwelling-house" in section twenty-nine of the principal Act.

- 36 (2) For the definition of owner in the same section the following definition shall be substituted :—

“The expression ‘owner,’ in addition to the definition given by the Lands Clauses Acts, includes all lessees or mortgagees of any premises required to be dealt with under this Part of this Act, except persons holding or entitled to the rents and profits of such premises under a lease the original term whereof is less than twenty-one years.”

- 64 50. For the definition of cottage in section fifty-three of the principal Act the following definition shall be substituted :— Definition of cottage.

The expression “cottage” in this Part of this Act may include a garden of not more than one acre.

51. In this Part of this Act the expression “Housing Acts” means the principal Act, and any Act amending that Act, including this Act. Definition of Housing Acts.

Application of Part I. to Scotland.

52. Subject as herein-after provided, the Housing of the Working Classes Act, 1900, and the Housing of the Working Classes Act, 1903, shall as amended by this Act apply to Scotland. Extension of 63 & 64 Vict., c. 59 and 3 Edw. 7, c. 39 to Scotland.

53. In addition to the provisions of the principal Act respecting the application of that Act to Scotland, the following provisions shall have effect in the application of the Housing Acts to Scotland :— Application of Housing Acts to Scotland.

- 94 (1) The Local Government Board for Scotland (herein-after in this section referred to as the Board) shall, except as otherwise provided, be substituted for the Local Government Board, and shall also in Part III. of the principal Act as amended and in section five of the Housing of the Working Classes Act, 1900, be substituted for the county council :

- (2) The Lord Advocate shall be substituted for the Attorney-General: 98
- (3) The expression "Public Health Acts" means the Public Health (Scotland) Act, 1897, and any Act amending the same. References to the Public Health Act, 1875, shall, unless the context otherwise requires, be construed as references to the Public Health (Scotland) Act, 1897, a reference to an order under section eighty-three of the Public Health (Scotland) Act, 1897, shall be substituted for a reference to a provisional order under section two hundred and seventy-nine of the Public Health Act, 1875, and a reference to section seventy-two of the Public Health (Scotland) Act, 1897, shall be substituted for a reference to section ninety of the Public Health Act, 1875: 94
- (4) The reference to section fifty-seven of the principal Act to sections of the Public Health Act, 1875, relating to the purchase of lands, shall be construed as a reference to the corresponding sections of the Public Health (Scotland) Act, 1897: Provided that for the purposes of Part III. of the principal Act the procedure under section two of this Act for the compulsory purchase of land shall be substituted for the procedure for the compulsory purchase of land under section one hundred and forty-five of the Public Health (Scotland) Act, 1897: 96
- (5) The district and the local authority for the purposes of the Public Health (Scotland) Act, 1897, shall respectively be the district and the local authority, and the public health general assessment shall be the local rate, for the purposes of the Housing Acts: provided that such local rate shall not be reckoned in any calculation as to the statutory limit of the public health general 95

assessment; and provided further that a local authority not being a town council may, where so authorised by the Board in terms of the Housing Acts, assess and levy such local rate upon all land and heritages within one or more of the parishes or special districts comprised in their district, to the exclusion of other parishes or special districts within the district :

- 97 (6) A local authority may, with the consent of the Board, borrow money for the purposes authorised in the Housing Acts on the security of the local rate in the same manner, and subject to the same conditions as nearly as may be, as they may borrow for the provision of permanent hospitals under the Public Health (Scotland) Act, 1897 ; provided that all money so borrowed shall, notwithstanding the terms of section one hundred and forty-one of the said Act, be wholly repaid together with the accruing interest within such period not exceeding eighty years from the date of the loan as the Board may determine in each case :
- 95 (7) The expressions “ urban sanitary authority ” and “ rural sanitary authority ” or “ rural district council ” mean respectively the local authority (for the purposes of the Public Health (Scotland) Act, 1897) of a burgh and of a district not being a burgh, and the expressions “ urban district ” and “ rural district ” shall be construed accordingly :
- 95 (8) The Acts relating to nuisances mean as respects any place the Public Health (Scotland) Act, 1897, and the Local Government (Scotland) Act, 1889, and any Act amending the same or either of them, and any local Act which contains any provisions with respect to nuisances in that place :

60 & 61 Vict.,
c. 38.
52 & 53 Vict.,
c. 50.

- (9) Except so far as inconsistent with the provisions of subsection (1) of section eighty-five of the principal Act, sections seven, eight, nine, and ten of the Public Health (Scotland) Act, 1897, shall apply for the purpose of local inquiries ordered by the Board under the Housing Acts : 97
- (10) Section one, subsection (1) of section four, and section ten of the Housing of the Working Classes Act, 1903, shall not apply. In the last-mentioned Act sections three and twelve shall apply with the substitution of the date of the passing of this Act for the date of the passing of that Act, and the Schedule shall apply with the modifications specified in the Third Schedule to this Act : 95
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- (11) Where a complaint is made to the Board— 99
- (a) as respects the district of a local authority not being a town council, by the county council, or by the parish council or landward committee of any parish comprised in the district, or by any four inhabitant householders of the district ; or 102
- (b) as respects any other district by any four inhabitant householders of the district ;

that the local authority have failed to exercise their powers under Part II. or Part III. of the principal Act in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held, and if, after holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, it shall be lawful for the Board, with the approval of the Lord Advocate, to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord

Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just. Section ten of this Act shall not apply :

- 100
102 (12) Where it appears to the Board that a local authority have failed to perform their duty under the Housing Acts of carrying out an improvement scheme under Part I. of the principal Act, or have failed to make, or, if made, to give effect to, any order as respects an obstructive building, or any reconstruction scheme, under Part II. of that Act, or have failed to cause to be made the inspection of their district required by this Act, it shall be lawful for the Board to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed as in the immediately preceding subsection. Section eleven of this Act shall not apply :
- 102 (13) Section twelve and section thirteen of this Act shall not apply :
- 96 (14) Sections fifteen, seventeen, eighteen, and thirty-nine of this Act shall apply with the substitution (except as regards the making of or consenting to regulations) of the sheriff for the Local Government Board and of the Court of Session for the High Court ; provided that the reference to a public local inquiry shall not apply, and provided further that where an appeal is competent under any of these sections, an appeal shall not be competent under section thirty-five of the principal Act, and provided also that the

60 & 61 Vict.,
c. 38.

power to make rules under section thirty-nine of this Act shall be exercised by the Court of Session by act of sederunt. Section one hundred and forty-six of the Public Health (Scotland) Act, 1897 (prescribing the procedure if a local authority neglect its duty), shall have effect as if the duties imposed upon a local authority by sections seventeen and eighteen of this Act were duties imposed by that Act :

- (15) In the application to Scotland of section 93 fourteen of this Act the limit of rent shall be sixteen pounds :
- (16) References to special expenses shall not 100 apply ;
- (17) "Overseers" means parish council, "paid 102 into court" means "paid into bank," "as a civil debt in manner provided by the Summary Jurisdiction Acts" means in a summary manner.

PART II.

TOWN PLANNING.

Preparation
and approval
of town
planning
scheme.

54.—(1) A town planning scheme may be made in 120
accordance with the provisions of this Part of this 127
Act as respects any land which is in course of 128
development or appears likely to be used for building
purposes, with the general object of securing proper
sanitary conditions, amenity, and convenience in
connexion with the laying out and use of the land,
and of any neighbouring lands.

(2) The Local Government Board may authorise 129
a local authority within the meaning of this Part of 130
this Act to prepare such a town planning scheme 138
with reference to any land within or in the neigh- 155
bourhood of their area, if the authority satisfy the
Board that there is a *prima facie* case for making
such a scheme, or may authorise a local authority to

adopt, with or without any modifications, any such scheme proposed by all or any of the owners of any land with respect to which the local authority might themselves have been authorised to prepare a scheme.

- 128 (3) Where it is made to appear to the Local Government Board that a piece of land already built upon, or a piece of land not likely to be used for building purposes, is so situated with respect to any land likely to be used for building purposes that it ought to be included in any town planning scheme made with respect to the last-mentioned land, the Board may authorise the preparation or adoption of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

- 131 (4) A town planning scheme prepared or adopted by a local authority shall not have effect, unless it is approved by order of the Local Government Board, and the Board may refuse to approve any scheme except with such modifications and subject to such conditions as they think fit to impose:

Provided that, before a town planning scheme is approved by the Local Government Board, notice of their intention to do so shall be published in the London or Edinburgh Gazette, as the case may be, and, if within twenty-one days from the date of such publication any person or authority interested objects in the prescribed manner, the draft of the order shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and, if either of those Houses before the expiration of those thirty days presents an address to His Majesty against the draft, or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft scheme.

- 131 (5) A town planning scheme, when approved by the Local Government Board, shall have effect as if it were enacted in this Act.

(6) A town planning scheme may be varied or revoked by a subsequent scheme prepared or adopted and approved in accordance with this Part of this Act, and the Local Government Board, on the application of the responsible authority, or of any other person appearing to them to be interested, may by order revoke a town planning scheme if they think that under the special circumstances of the case the scheme should be so revoked. **131**

(7) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not, and the decision of the Local Government Board, whether land is likely to be used for building purposes or not, shall be final. **128**

Contents of
town planning
schemes.

55.—(1) The Local Government Board may prescribe a set of general provisions (or separate sets of general provisions adapted for areas of any special character) for carrying out the general objects of town planning schemes, and in particular for dealing with the matters set out in the Fourth Schedule to this Act, and the general provisions, or set of general provisions appropriate to the area for which a town planning scheme is made, shall take effect as part of every scheme, except so far as provision is made by the scheme as approved by the Board for the variation or exclusion of any of those provisions.

(2) Special provisions shall in addition be inserted in every town planning scheme defining in such manner as may be prescribed by regulations under this Part of this Act the area to which the scheme is to apply, and the authority who are to be responsible for enforcing the observance of the scheme, and for the execution of any works which under the scheme or this Part of this Act are to be executed by a local authority (in this Part of this Act referred to as the **129**
141

responsible authority), and providing for any matters which may be dealt with by general provisions, and otherwise supplementing, excluding, or varying the general provisions, and also for dealing with any special circumstances or contingencies for which adequate provision is not made by the general provisions, and for suspending, so far as necessary for the proper carrying out of the scheme, any statutory enactments, byelaws, regulations, or other provisions, under whatever authority made, which are in operation in the area included in the scheme :

Provided that, where the scheme contains provisions suspending any enactment contained in a public general Act, the scheme shall not come into force unless a draft thereof has been laid before each House of Parliament for a period of not less than forty days during the session of Parliament, and, if either of those Houses before the expiration of those forty days presents an Address to His Majesty against the proposed suspension no further proceedings shall be taken on the draft, without prejudice to the making of any new scheme.

- 129 (3) Where land included in a town planning scheme is in the area of more than one local authority, or is in the area of a local authority by whom the scheme was not prepared, the responsible authority may be one of those local authorities, or for certain purposes of the scheme one local authority and for certain purposes another local authority, or a joint body constituted specially for the purpose by the scheme, and all necessary provisions may be made by the scheme for constituting the joint body and giving them the necessary powers and duties :

Provided that, except with the consent of the London County Council, no other local authority shall, as respects any land in the county of London, prepare or be responsible for enforcing the observance of a town planning scheme under this Part of this Act, or for the execution of any works which under the scheme or this Part of this Act are to be executed by a local authority.

Procedure
regulations
of the Local
Government
Board.

56.—(1) The Local Government Board may make regulations for regulating generally the procedure to be adopted with respect to applications for authority to prepare or adopt a town planning scheme, the preparation of the scheme, obtaining the approval of the Board to a scheme so prepared or adopted, and any inquiries, reports, notices, or other matters required in connection with the preparation or adoption or the approval of the scheme or preliminary thereto, or in relation to the carrying out of the scheme or enforcing the observance of the provisions thereof. 134

(2) Provision shall be made by those regulations—

- (a) for securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme at every stage of the proceedings, by means of conferences and such other means as may be provided by the regulations;
- (b) for securing that notice of the proposal to prepare or adopt the scheme should be given at the earliest stage possible to any council interested in the land; and
- (c) for dealing with the other matters mentioned in the Fifth Schedule to this Act.

Power to
enforce
scheme.

57.—(1) The responsible authority may at any time, after giving such notice as may be provided by a town planning scheme and in accordance with the provisions of the scheme— 134

- (a) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with; or
- (b) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the authority that

delay in the execution of the work would prejudice the efficient operation of the scheme.

135 (2) Any expenses incurred by a responsible authority under this section may be recovered from the person in default in such manner and subject to such conditions as may be provided by the scheme.

135 (3) If any question arises whether any building or work contravenes a town planning scheme, or whether any provision of a town planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the Local Government Board, and shall, unless the parties otherwise agree, be determined by the Board as arbitrators, and the decision of the Board shall be final and conclusive and binding on all persons.

144 **58.**—(1) Any person whose property is injuriously affected by the making of a town planning scheme shall, if he makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date when notice of the approval of the scheme is published in the manner prescribed by regulations made by the Local Government Board, be entitled to obtain compensation in respect thereof from the responsible authority.

Compensation
in respect of
property
injuriously
affected by
scheme, &c.

145 (2) A person shall not be entitled to obtain compensation under this section on account of any building erected on, or contract made or other thing done with respect to, land included in a scheme, after the time at which the application for authority to prepare the scheme was made, or after such other time as the Local Government Board may fix for the purpose:

Provided that this provision shall not apply as respects any work done before the date of the approval of the scheme for the purpose of finishing a building begun or of carrying out a contract entered into before the application was made.

(3) Where, by the making of any town planning scheme, any property is increased in value, the responsible authority, if they make a claim for the purpose within the time (if any) limited by the scheme (not being less than three months after the date when notice of the approval of the scheme is first published in the manner prescribed by regulations made by the Local Government Board), shall be entitled to recover from any person whose property is so increased in value one-half of the amount of that increase. 146

(4) Any question as to whether any property is injuriously affected or increased in value within the meaning of this section, and as to the amount and manner of payment (whether by instalments or otherwise) of the sum which is to be paid as compensation under this section or which the responsible authority are entitled to recover from a person whose property is increased in value, shall be determined by the arbitration of a single arbitrator appointed by the Local Government Board, unless the parties agree on some other method of determination. 146

(5) Any amount due under this section as compensation to a person aggrieved from a responsible authority, or to a responsible authority from a person whose property is increased in value, may be recovered summarily as a civil debt. 146

(6) Where a town planning scheme is revoked by an order of the Local Government Board under this Act, any person who has incurred expenditure for the purpose of complying with the scheme shall be entitled to compensation in accordance with this section in so far as any such expenditure is rendered abortive by reason of the revocation of the scheme. 144

Exclusion or
limitation of
compensation
in certain cases.

59.—(1) Where property is alleged to be injuriously affected by reason of any provisions contained in a town planning scheme, no compensation shall be paid in respect thereof if or so far as the provisions are such as would have been enforceable if they had been contained in byelaws made by the local authority. 144

145 (2) Property shall not be deemed to be injuriously affected by reason of the making of any provisions inserted in a town planning scheme, which, with a view to securing the amenity of the area included in the scheme or any part thereof, prescribe the space about buildings or limit the number of buildings to be erected, or prescribe the height or character of buildings, and which the Local Government Board, having regard to the nature and situation of the land affected by the provisions, consider reasonable for the purpose.

145 (3) Where a person is entitled to compensation under this Part of this Act in respect of any matter or thing, and he would be entitled to compensation in respect of the same matter or thing under any other enactment, he shall not be entitled to compensation in respect of that matter or thing both under this Act and under that other enactment, and shall not be entitled to any greater compensation under this Act than he would be entitled to under the other enactment.

132 60.—(1) The responsible authority may, for the purpose of a town planning scheme, purchase any land comprised in such scheme by agreement, or be authorised to purchase any such land compulsorily in the same manner and subject to the same provisions (including any provision authorising the Local Government Board to give directions as to the payment and application of any purchase money or compensation) as a local authority may purchase or be authorised to purchase land situate in an urban district for the purposes of Part III. of the Housing of the Working Classes Act, 1890, as amended by sections two and forty-five of this Act.

Acquisition by
local authorities
of land com-
prised in a
scheme.

(2) Where land included within the area of a local authority is comprised in a town planning scheme, and the local authority are not the responsible authority, the local authority may purchase or be authorised to purchase that land in the same manner as the responsible authority.

Powers of Local Government Board in case of default of local authority to make or execute town planning scheme.

61.—(1) If the Local Government Board are satisfied on any representation, after holding a public local inquiry, that a local authority—

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- (a) have failed to take the requisite steps for having a satisfactory town planning scheme prepared and approved in a case where a town planning scheme ought to be made; or
- (b) have failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted; or
- (c) have unreasonably refused to consent to any modifications or conditions imposed by the Board;

the Board may, as the case requires, order the local authority to prepare and submit for the approval of the Board such a town planning scheme, or to adopt the scheme, or to consent to the modifications or conditions so inserted:

Provided that, where the representation is that a local authority have failed to adopt a scheme, the Local Government Board, in lieu of making such an order as aforesaid, may approve the proposed scheme, subject to such modifications or conditions, if any, as the Board think fit, and thereupon the scheme shall have effect as if it had been adopted by the local authority and approved by the Board.

(2) If the Local Government Board are satisfied on any representation, after holding a local inquiry, that a responsible authority have failed to enforce effectively the observance of a scheme which has been confirmed, or any provisions thereof, or to execute any works which under the scheme or this Part of this Act the authority is required to execute, the Board may order that authority to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works which under the scheme or this Part of this Act the authority is required to execute.

(3) Any order under this section may be enforced by mandamus.

135 **62.**—Where the Local Government Board are authorised by this Part of this Act or any scheme made thereunder to determine any matter, it shall, except as otherwise expressly provided by this Part of this Act, be at their option to determine the matter as arbitrators or otherwise, and, if they elect or are required to determine the matter as arbitrators, the provisions of the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted and in terms made applicable to the Local Government Board and the determination of the matters aforesaid.

Determination
of matters
by Local
Government
Board.

31 & 32 Vict.,
c. 119.

135 **63.** Section eighty-five of the Housing of the Working Classes Act, 1890 (which relates to inquiries by the Local Government Board), as amended by this Act, shall apply for any purposes of this Part of this Act as it applies for the purpose of the execution of the powers and duties of the Local Government Board under that Act.

Inquiries
by Local
Government
Board.

121 **64.** All general provisions made under this Part of this Act shall be laid as soon as may be before Parliament, and the Rules Publication Act, 1893, shall apply to such provisions as if they were statutory rules within the meaning of section one of that Act.

Laying general
provisions
before Parlia-
ment.
56 & 57 Vict.,
c. 66.

129 **65.**—(1) For the purposes of this Part of this Act the expression “local authority” means the council of any borough or urban or rural district.

Definition of
local authority,
and expenses.

133 (2) Any expenses incurred by a local authority under this Part of this Act, or any scheme made thereunder, shall be defrayed as expenses of the authority under the Public Health Acts, and the authority may borrow, for the purposes of this Part of this Act, or any scheme made thereunder, in the same manner and subject to the same provisions as they may borrow for the purposes of the Public Health Acts.

(3) Money borrowed for the purposes of this Part of this Act, or any scheme made thereunder, shall not be reckoned as part of the debt of a borough or urban district for the purposes of the limitation on borrowing under subsections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875. 133

Application
to London.

66.—(1) This Part of this Act shall apply to the administrative county of London, and, as respects that county, the London County Council shall be the local authority. 129

(2) Any expenses incurred by the London County Council shall be defrayed out of the general county rate and any money may be borrowed by the Council in the same manner as money may be borrowed for general county purposes.

Application
of Part II. to
Scotland.

67. This Part of this Act shall apply to Scotland subject to the following modifications:—

- (1) The Local Government Board for Scotland (herein-after referred to as the Board) shall be substituted for the Local Government Board, and shall for the purposes of this Part of this Act have the same powers of local inquiry as for the purposes of the Housing Acts as defined in Part I. of this Act.
- (2) Subsection (1) and subsection (3) of the section of this Part of this Act which relates to the definition of local authority and expenses shall not apply.
- (3) The local authority and the area of such authority for the purposes of this Part of this Act shall respectively be the local authority for the purposes of the Housing Acts as defined in Part I. of this Act, and the district of that authority.
- (4) References to the Public Health Acts shall be construed as references to the Housing Acts as defined in Part I. of this Act.

- (5) Any local rate for the purposes of this Part of this Act (including the purposes of any loan) shall not be reckoned in any calculation as to the statutory limit of the public health general assessment.
- (6) The Board shall not themselves make an order under section sixty-one of this Act on any authority, but in lieu thereof it shall be lawful for the Board, after holding a local inquiry at which the authority shall have had an opportunity of being heard, and with the approval of the Lord Advocate, to apply for such an order by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just.
- (7) In any proceedings under this Part of this Act the Board shall have regard to the powers and jurisdiction of the dean of guild court in burghs.
- (8) The provision respecting the Rules Publication Act, 1893, shall have effect as if section one of that Act applied to Scotland, with the substitution of the "Edinburgh Gazette" for the "London Gazette."

PART III.

COUNTY MEDICAL OFFICERS, COUNTY PUBLIC HEALTH AND HOUSING COMMITTEE, &c.

- 112 **68.**—(1) Every county council shall appoint a medical officer of health under section seventeen of the Local Government Act, 1888.
- 112 (2) The duties of a medical officer of health of a county shall be such duties as may be prescribed by

Appointment,
duties, and
tenure of office
of county
medical
officers.
51 & 52 Vict.,
c. 41.

general order of the Local Government Board and such other duties as may be assigned to him by the county council.

(3) The power of county councils and district 112 councils under the said section to make arrangements with respect to medical officers of health shall cease, without prejudice to any arrangement made previously to the date of the passing of this Act.

(4) The medical officer of health of a county 113 shall, for the purposes of his duties, have the same powers of entry on premises as are conferred on a medical officer of health of a district by or under any enactment.

(5) A medical officer of health of a county shall 112 be removable by the county council with the consent of the Local Government Board and not otherwise.

(6) A medical officer of health of a county shall 112 not be appointed for a limited period only : 113

Provided that the county council may, with the sanction of the Local Government Board, make any temporary arrangement for the performance of all or any of the duties of the medical officer of health of the county, and any person appointed by virtue of any such arrangement to perform those duties or any of them shall, subject to the terms of his appointment, have all the powers, duties, and liabilities of the medical officer of health of the county.

(7) A medical officer of health appointed after the 112 passing of this Act under the said section as amended by this section shall not engage in private practice, and shall not hold any other public appointment without the express written consent of the Local Government Board.

(8) An order under this section prescribing the 112 duties of medical officers of health of a county shall be communicated to the county council and shall be laid before Parliament as soon as may be after it is made, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has

sat next after the order is laid before it praying that the order may be annulled, His Majesty in Council may annul the order and it shall thenceforward be void, but without prejudice to the validity of anything previously done thereunder.

- 113 69.**—(1) The clerk of a rural district council shall forward to the medical officer of health of the county a copy of any representation, complaint, or information, a copy of which it is the duty of the district council to forward to the county council under section forty-five of the Housing of the Working Classes Act, 1890 (which relates to the powers of county councils).

Duty of clerk and medical officer of health of district council to furnish information to medical officer of health of county council.

(2) The medical officer of health of a district shall give to the medical officer of health of the county any information which it is in his power to give, and which the medical officer of health of the county may reasonably require from him for the purpose of his duties prescribed by the Local Government Board.

(3) If any dispute or difference shall arise between the clerk or the medical officer of health of a district council and the medical officer of health of a county council under this section, the same shall be referred to the Local Government Board, whose decision shall be final and binding.

(4) If the clerk or medical officer of health of a district council fails to comply with the provisions of this section, he shall on information being laid by the county council, but not otherwise, be liable on summary conviction in respect of each offence to a fine not exceeding ten pounds.

- 113 70.** The foregoing provisions of this Part of this Act shall not apply to Scotland or, except subsection (4) of section sixty-eight, to the administrative county of London, and, in the application of the said subsection to London, the reference to a medical officer of health of a district shall be construed as a reference to the medical officer of health of a metropolitan borough.

Extent of Part III.

Public health
and housing
committee of
county councils.

71.—(1) Every county council shall establish a public health and housing committee, and all matters relating to the exercise and performance by the council of their powers and duties as respects public health and the housing of the working classes (except the power of raising a rate or borrowing money) shall stand referred to the public health and housing committee, and the council, before exercising such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the public health and housing committee with respect to the matter in question, and the council may also delegate to the public health and housing committee, with or without restrictions or conditions as they think fit, any of their powers as respects public health and the housing of the working classes, except the power of raising a rate or borrowing money and except any power of resolving that the powers of a district council in default should be transferred to the council. 111

(2) This section shall not apply to Scotland or the London County Council. 101
112

Formation and
extension of
building
societies.

72.—(1) The county council may promote the formation or extension of and may, subject to the provisions of this section, assist societies on a co-operative basis, having for their object or one of their objects the erection or improvement of dwellings for the working classes. 114

(2) The county council, with the consent of and subject to the regulations made by the Local Government Board, may for the purpose of assisting a society make grants or advances to the society, or guarantee advances made to the society, upon such terms and conditions as to rate of interest and repayment, or otherwise, and on such security, as the council think fit, and the making of such grants or advances shall be a purpose for which a council may borrow :

Provided that the regulations of the Board shall provide that any such advance made on the security of any property shall not exceed two-thirds of the value of that property.

PART IV.

SUPPLEMENTAL.

- 89 **73.**—(1) Where any scheme or order under the
132 Housing Acts or Part II. of this Act authorises the acquisition or appropriation to any other purpose of any land forming part of any common, open space, or allotment, the scheme or order, so far as it relates to the acquisition or appropriation of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the scheme or order provides for giving in exchange for such land other land, not being less in area, certified by the Local Government Board after consultation with the Board of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public.
- 89 (2) Before giving any such certificate the Board shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.
- 89 (3) Where any such scheme or order authorises
90 such an exchange, the scheme or order shall provide for vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts, and incidents as attached to the common or open space, and for discharging the part of the common, open space, or allotment acquired or appropriated from all rights, trusts, and incidents to which it was previously subject.

Provisions as to
commons and
open spaces.

(4) For the purposes of this Act the expression "common" shall include any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green; the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground; and the expression "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

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Provisions as to
land in neigh-
bourhood of
royal palaces
or parks.

74.—(1) Where any land proposed to be included in any scheme or order to be made under the Housing Acts or Part II. of this Act, or any land proposed to be acquired under the Housing Acts or Part II. of this Act, is situate within the prescribed distance from any of the royal palaces or parks, the local authority shall, before preparing the scheme or order or acquiring the land, communicate with the Commissioners of Works, and the Local Government Board shall, before confirming the scheme or order or authorising the acquisition of the land or the raising of any land for the purpose, take into consideration any recommendations they may have received from the Commissioners of Works with reference to the proposal.

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(2) For the purposes of this section "prescribed" means prescribed by regulations made by the Local Government Board after consultation with the Commissioners of Works.

Repeal.

75. The enactments mentioned in the Sixth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Short title and
extent.

76.—(1) This Act may be cited as the Housing, Town Planning, &c. Act, 1909, and Part I. of this Act shall be construed as one with the Housing of the Working Classes Acts, 1890 to 1903, and that Part of this Act and those Acts may be cited together as the Housing of the Working Classes Acts, 1890 to 1909.

(2) This Act shall not extend to Ireland.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND BY A LOCAL AUTHORITY FOR THE PURPOSES OF PART III. OF THE HOUSING OF THE WORKING CLASSES ACT, 1890.

(1) Where a local authority propose to purchase land compulsorily under this Act, the local authority may submit to the Board an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(2) An order under this schedule shall be of no force unless and until it is confirmed by the Board, and the Board may confirm the order either without modification or subject to such modifications as they think fit, and an order when so confirmed shall, save as otherwise expressly provided by this schedule, become final and have effect as if enacted in this Act; and the confirmation by the Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.

(3) In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase being compulsory.

(4) The order shall be in the prescribed form, and shall contain such provisions as the Board may prescribe for the purpose of carrying the order into effect, and of protecting the local authority and the persons interested in the land, and shall incorporate, subject to the necessary adaptations, the Lands Clauses Acts (except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845) and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, but subject to

& 9 Vict., c. 18.

8 & 9 Vict., c. 20.

this modification, that any question of disputed compensation shall be determined by a single arbitrator appointed by the Board, who shall be deemed to be an arbitrator within the meaning of the Lands Clauses Acts, and the provisions of those Acts with respect to arbitration shall, subject to the provisions of this schedule, apply accordingly.

(5) The order shall be published by the local authority in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired, and to the owners, lessees, and occupiers of that land as may be prescribed.

(6) If within the prescribed period no objection to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall, without further inquiry, confirm the order, but, if such an objection has been presented and has not been withdrawn, the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the local authority and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry.

(7) Where the land proposed to be acquired under the order consists of or comprises land situate in London, or a borough, or urban district, the Board shall appoint an impartial person, not in the employment of any Government Department, to hold the inquiry as to whether the land proposed to be acquired is suitable for the purposes for which it is sought to be acquired, and whether, having regard to the extent or situation of the land and the purposes for which it is used, the land can be acquired without undue detriment to the persons interested therein or the owners of adjoining land, and such person shall in England have for the purpose of the inquiry all the powers of an inspector of the Local Government Board, and, if he reports that the land, or any part thereof, is not suitable for the purposes for which it is sought to be acquired, or that owing to its extent

or situation or the purpose for which it is used it cannot be acquired without such detriment as aforesaid, or that it ought not to be acquired except subject to the conditions specified in his report, then, if the Local Government Board confirm the order in respect of that land, or part thereof, or, as the case may require, confirm it otherwise than subject to such modifications as are required to give effect to the specified conditions, the order shall be provisional only, and shall not have effect unless confirmed by Parliament.

Where no part of the land is so situated as aforesaid, before confirming the order, the Board shall consider the report of the person who held the inquiry, and all objections made thereat.

(8) The arbitrator shall, so far as practicable, in assessing compensation act on his own knowledge and experience, but, subject as aforesaid, at any inquiry or arbitration held under this schedule the person holding the inquiry or arbitration shall hear, by themselves or their agents, any authorities or parties authorised to appear, and shall hear witnesses, but shall not, except in such cases as the Board otherwise direct, hear counsel or expert witnesses.

(9) The Board may, with the concurrence of the Lord Chancellor, make rules fixing a scale of costs to be applicable on an arbitration under this schedule, and an arbitrator under this schedule may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily and any other costs which he considers to have been caused or incurred unnecessarily.

(10) The remuneration of an arbitrator appointed under this schedule shall be fixed by the Board.

(11) In construing for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking.

(12) Where the land is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

(13) In this schedule the expression "Board" means the Local Government Board, and the expression "prescribed" means prescribed by the Board.

(14) The provisions of this schedule, except those relating to land belonging to an ecclesiastical benefice, shall apply to Scotland, subject to the following modifications:—

- (a) for the reference to section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845, there shall be substituted a reference to section one hundred and twenty of the Lands Clauses Consolidation (Scotland) Act, 1845, and for the reference to sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, there shall be substituted a reference to sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845;
- (b) for references to an arbitrator there shall be substituted references to an arbiter;
- (c) for the references to the Lord Chancellor there shall be substituted a reference to the Lord Advocate;
- (d) for the reference to the Local Government Board there shall be substituted a reference to the Local Government Board for Scotland, and for the reference to a borough or urban district there shall be substituted a reference to a burgh.

SECOND SCHEDULE.

Section 46.

MINOR AMENDMENTS OF HOUSING ACTS.

Enactment to be amended.	Nature or Amendment.
Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70).	
Section 23 - -	After the word "displaced" the words "in consequence of" shall be substituted for the word "by."
Section 34 - -	The words "the order becomes operative" shall be substituted for the words "service of the order."
Section 35 - -	The words "if he is not entitled to appeal to the Local Government Board against the order" shall be inserted after the word "may" where it first occurs.
Section 38(1) (a)	The words "or impedes" shall be inserted after the word "stops."
Section 38 (7) -	The words "house or other building or manufactory" shall be substituted for the words "house or manufactory" wherever they occur in that subsection.
Section 39 (8) -	The words "as amended by any subsequent Act" shall be inserted after the word "Act" where it first occurs, and the words "to the power of the Local Government Board to enforce that duty" shall be inserted after the word "execution."
Section 40 - -	After the word "displaced" the words "in consequence of" shall be substituted for the word "by."
Section 85 - -	The words "powers and" shall be inserted before the word "duties."
Section 88 - -	The words "or Part III." shall be inserted after the words "Part II."
Section 89 - -	After the word "Act" where it first occurs the words "or any person authorised to enter" "dwelling-houses, premises, or buildings in" "pursuance of this Act" shall be inserted; the words "authority or person" shall be substituted for the words "or authority," and the word "he" shall be substituted for the words "such person."

Section 53.

THIRD SCHEDULE.

MODIFICATIONS OF THE SCHEDULE TO THE HOUSING OF THE WORKING CLASSES ACT, 1903, IN ITS APPLICATION TO SCOTLAND.

In the above-mentioned schedule, as applying to Scotland, the expression "district within the meaning of the Public Health (Scotland) Act, 1897," shall be substituted for the expressions "borough," "urban district," and "parish" respectively; "Local Government Board for Scotland" shall be substituted for "Local Government Board"; "every such appropriation of lands shall be recorded as a real burden affecting such lands in the appropriate register of sasines" shall be substituted for "every conveyance, demise, or lease of any such lands shall be endorsed with notice of this provision"; "subsections one and three (with the substitution of the Local Government Board for Scotland for the Secretary for Scotland) of section ninety-three of the Local Government (Scotland) Act, 1889" shall be substituted for "subsections one and five of section eighty-seven of the Local Government Act, 1888"; "Court of Session" shall be substituted for "High Court"; "order of the Court of Session on the application of the Board" shall be substituted for "mandamus"; and "local authority for the purposes of the Public Health (Scotland) Act, 1897, in whose district" shall be substituted for "council of any administrative county and the district council of any county district; or in London the council of any metropolitan borough, in which."

Section 55.

FOURTH SCHEDULE.

MATTERS TO BE DEALT WITH BY GENERAL PROVISIONS PRESCRIBED BY THE LOCAL GOVERNMENT BOARD.

1. Streets, roads, and other ways, and stopping up, or diversion of existing highways.
2. Buildings, structures, and erections.

3. Open spaces, private and public.
4. The preservation of objects of historical interest or natural beauty.
5. Sewerage, drainage, and sewage disposal.
6. Lighting.
7. Water supply.
8. Ancillary or consequential works.
9. Extinction or variation of private rights of way and other easements.
10. Dealing with or disposal of land acquired by the responsible authority or by a local authority.
11. Power of entry and inspection.
12. Power of the responsible authority to remove, alter, or demolish any obstructive work.
13. Power of the responsible authority to make agreements with owners, and of owners to make agreements with one another.
14. Power of the responsible authority or a local authority to accept any money or property for the furtherance of the object of any town planning scheme, and provision for regulating the administration of any such money or property and for the exemption of any assurance with respect to money or property so accepted from enrolment under the Mortmain and Charitable Uses Act, 1888.
15. Application with the necessary modifications and adaptations of statutory enactments.
16. Carrying out and supplementing the provisions of this Act for enforcing schemes.
17. Limitation of time for operation of scheme.
18. Co-operation of the responsible authority with the owners of land included in the scheme or other persons interested by means of conferences, &c.
19. Charging on the inheritance of any land the value of which is increased by the operation of a town-planning scheme the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of land.

51 & 52 Vict.,
c. 42.

FIFTH SCHEDULE.

1. Procedure anterior to and for the purpose of an application for authority to prepare or adopt a scheme:—

(a) Submission of plans and estimates.

(b) Publication of notices.

2. Procedure during, on, and after the preparation or adoption and before the approval of the scheme:—

(a) Submission to the Local Government Board of the proposed scheme, with plans and estimates.

(b) Notice of submission of proposed scheme to the Local Government Board.

(c) Hearing of objections and representations by persons affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme.

(d) Publication of notice of intention to approve scheme and the lodging of objections thereto.

(3) Procedure after the approval of the scheme:—

(a) Notice to be given of approval of scheme.

(b) Inquiries and reports as to the beginning and the progress and completion of works, and other action under the scheme.

4. Duty, at any stage, of the local authority to publish or deposit for inspection any scheme or proposed scheme, and the plans relating thereto, and to give information to persons affected with reference to any such scheme or proposed scheme.

5. The details to be specified in plans, including, wherever the circumstances so require, the restrictions on the number of buildings which may be erected on each acre, and the height and character of those buildings.

SIXTH SCHEDULE.

Section 75.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	Section seventeen, from "who shall not hold" to end of the section.
53 & 54 Vict. c. 70.	The Housing of the Working Classes Act, 1890.	<p>The words "for sanitary purposes" in paragraph (a) of subsection (1) of section six.</p> <p>Subsection (6) of section eight, and section nine.</p> <p>Subsection (5) of section twelve.</p> <p>Subsection (2) of section fifteen, including the proviso thereto.</p> <p>Sections seventeen, eighteen and nineteen.</p> <p>In section twenty-five, the words at the end of the section "such loan shall be repaid within such period, not exceeding fifty years, as may be recommended by the confirming authority."</p> <p>Sections twenty-seven and twenty-eight.</p> <p>In section twenty-nine, the words "means any inhabited building and" in the definition of "dwelling-house"</p> <p>Sections thirty-two and thirty-three.</p> <p>In section thirty-nine, the words "by agreement" in subsection (4) where those words first occur, and all after the word "sanctioned" to the end of that subsection; subsections (5) and (6); the words "to costs to be awarded in certain cases by a Committee of either House of Parliament" in subsection (8); and subsection (9) from "Provided that" to the end.</p> <p>In subsection (3) of section forty-seven, the words "the time allowed under any order for the execution of any works or the demolition of a building, or".</p> <p>In section fifty-three, subsection (2).</p>

Session and Chapter.	Short Title.	Extent of Repeal.
53 & 54 Vict. c. 70.	The Housing of the Working Classes Act, 1890.	<p>Section fifty-four, so far as un-repealed.</p> <p>Section fifty-five, so far as it applies to Scotland.</p> <p>Section sixty-three.</p> <p>Section sixty-five, from "and (iii)" to the end of the section.</p> <p>In section sixty-six the words "or special."</p> <p>Section seventy-seven.</p> <p>Section eighty-three.</p> <p>In section eighty-five, the words "not exceeding three guineas a day."</p> <p>Section ninety-two, from "but in" to the end of the section.</p> <p>Subsection (3) except paragraph (c), and subsection (4) of section ninety-four.</p> <p>Subsections (1), (2), (7), (8), and (14) of section ninety-six.</p> <p>In subsection (3) of section ninety-seven the words "the time allowed" under any order for the execution of any works or the demolition of a building, or."</p> <p>The First Schedule, so far as it applies to Scotland.</p> <p>The Third, Fourth, and Fifth Schedules.</p>
59 & 60 Vict. c. 31.	The Housing of the Working Classes Act, 1890, Amendment (Scotland) Act, 1896.	Section three.
63 & 64 Vict. c. 59.	The Housing of the Working Classes Act, 1900.	<p>Sections, two, six, and seven.</p> <p>In section eight the words "Scotland or."</p>
3 Edw. 7. c. 39.	The Housing of the Working Classes Act, 1903.	<p>Paragraphs (a) and (b) of subsection (2) of section five, sections six and eight, in section ten the words "in the manner provided by subsection three of section thirty-two of the principal Act," and section sixteen.</p> <p>In section seventeen the words "Scotland or."</p>

APPENDIX B.

Housing of the Working Classes Act, 1890.

SECOND SCHEDULE.

Section 20.

Provisions with respect to the Purchase and taking of Lands in England otherwise than by Agreement, and otherwise amending the Lands Clauses Acts.

DEPOSIT OF MAPS AND PLANS.

1-4, 38 & 39 Vict.
c. 36, Sch.

(1.) The local authority shall as soon as practicable after the passing of the confirming Act cause to be made out, and to be signed by their clerk or some other principal officer appointed by them, maps and schedules of all lands proposed to be taken compulsorily (which lands are hereinafter referred to as the scheduled lands), together with the names, so far as the same can be reasonably ascertained, of all persons interested in such lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

(2.) The maps made by the local authority shall be upon such scale and be framed in such manner as may be prescribed by the confirming authority.

(3.) The local authority shall deposit such maps and schedules at the office of the confirming authority, and shall deposit and keep copies of such maps and schedules at the office of the local authority.

APPOINTMENT OF ARBITRATOR.

(4.) After such deposit at the office of the confirming authority as aforesaid, it shall be lawful for the confirming authority, upon the application of the local authority, to appoint an arbitrator between the local authority, and the persons interested in such of the scheduled lands, or lands injuriously affected by the execution of such scheme, so far as compensation for the same has not been made the subject of agreement.

PROCEEDINGS ON ARBITRATION.

45 & 46 Vict.
c. 54, Sch. (1.)
a-f.

(5.) Before any arbitrator enters upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

‘I *A.B.* do solemnly and sincerely declare, that I
‘will faithfully and honestly, and to the best of
‘my skill and ability, hear and determine the matters
‘referred to me under the provisions of the Housing
‘of the Working Classes Act, 1890.

A.B.

‘Made and subscribed in the presence of .’

And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto he shall be guilty of a misdemeanor.

(6.) As soon as an arbitrator has been appointed as aforesaid, the confirming authority shall deliver to him the maps and schedules deposited at their office, and the local authority shall publish once in each of three successive weeks the following particulars:—

- (1.) The appointment of the arbitrator; and
- (2.) The deposit at the office of the local authority of the copies of such maps and schedules as aforesaid, with description of the situation of such office, and a statement of the time at which such copies may be inspected by any person desirous of inspecting the same.

42 & 43 Vict.
c. 63, Sch.
Art. 1.

Such publication shall be made not only by advertisement, but also by placards and handbills affixed in conspicuous places on or near the lands to be taken, and also by leaving a notice thereof at each house proposed to be taken, and also by sending a notice thereof by post to the persons interested in such lands as owners or reputed owners, lessees or reputed lessees, so far as they can be reasonably ascertained.

(7.) In every case in which compensation is payable under Part I. of this Act, by the local authority to any claimant, and which compensation has not been made the subject of agreement (in this Act referred to as "a disputed case"), the arbitrator shall ascertain in such manner as he thinks most convenient the amount of compensation demanded by the claimant, and the amount which the local authority may be willing to pay; and after hearing all such parties interested in each disputed case as may appear before him at a time and place of which notice has been given as in Part I. of this Act mentioned, he shall proceed to decide on the amount of compensation to which he may consider the claimant to be entitled in each case.

(8.) The arbitrator shall give notice to the claimants in disputed cases by causing such notice to be published or otherwise in such manner as he thinks advisable, of a time and place at which the difference between the claimants and the local authority in disputed cases, as to the amount of compensation to be paid, will be decided by the arbitrator.

(9.) After the arbitrator has arrived at a decision on all the disputed cases brought before him he shall make an award under his hand and seal, and such award shall be final, and be binding and conclusive subject to the provisions concerning an appeal herein-after contained upon all persons whomsoever, and no such award shall be set aside for irregularity in matter of form, but the arbitrator may and, if the local authority request him so to do, shall from time to time make an award respecting a portion only of the disputed cases brought before him.

(10.) Such award as aforesaid shall be deposited at the office of the confirming authority, and a copy thereof shall be deposited at the office of the local authority, and the local authority shall thereupon publish once in each of three successive weeks notice of the deposit having been made at the office of the local authority of a copy of the award, and a further

notice requiring all persons claiming to have any right to or interest in the lands the compensation to be paid in respect of which is ascertained by such award to deliver to the local authority on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which the same is founded ; and such statement and abstract shall be paid for by the local authority. Such abstract of title, in the case of a person claiming a fee simple interest in the land, shall commence twenty years previous to the date of the claim, except there has been an absolute conveyance on sale within twenty years, and more than ten years previous to the claim when the abstract shall commence with such conveyance.

SPECIAL POWERS OF ARBITRATION.

Power of
arbitrator as to
apportionment.
42 & 43 Vict.
c. 63, Sch. (2).

(11.) The arbitrator shall have the same power of apportioning any rent-service rentcharge, chief or other rent, payment, or incumbrance, or any rent payable in respect of lands comprised in a lease, as two justices have under the Lands Clauses Consolidation Act, 1845.

Amendment
respecting
severance of
properties.
8 & 9 Vict. c. 18,
42 & 43 Vict.
c. 63, Sch. (3).

(12.) Notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845, the arbitrator may determine that such part of any house, building, or manufactory as is proposed to be taken by the local authority can be taken without material damage to such house, building, or manufactory, and if he so determine may award compensation in respect of the severance of the part so supposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell and convey to the local authority such part, without the local authority being obliged to purchase the greater part or the whole of such house, building, or manufactory.

The local authority, or any person interested, if dissatisfied with a determination under this enactment, may, in manner provided with respect to appeals to a jury in respect of compensation for land by this schedule, submit the question of whether the said part can be taken without material damage, as well as the question of the proper amount of compensation, to a jury; and the notice of intention to appeal shall be given within the same time as notice of intention to appeal against the amount of compensation awarded is required to be given.

(13.) The amount of purchase money or compensation to be paid in pursuance of section one hundred and twenty-four of the Lands Clauses Consolidation Act, 1845, in respect of any estate, right or interest in or charge affecting any of the scheduled lands which the local authority have through mistake or inadvertence failed or omitted duly to purchase or make compensation for, shall be awarded by the arbitrator and be paid, in like manner, as near as may be, as the same would have been awarded and paid if the claim of such estate, right, interest, or charge had been delivered to the arbitrator before the day fixed for the delivery of statements of claims.

Omitted
interests.
42 & 43 Vict.
c. 63, Sch. (4).

If the arbitrator is satisfied that the failure or omission to purchase the said estate, right, interest, or charge arose from any default on the part either of the claimant or of the local authority, he may direct the costs to be paid by the party so in default.

PAYMENT OF PURCHASE MONEY.

(14.) Within thirty days from the delivery of such statement and abstract as aforesaid to the local authority, the local authority shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estates, or interest claimed by him, deliver to such person, on demand, a certificate stating the amount of the compensation to which he is entitled under the said award.

Arts. 14-24.
See 38 & 39
Vict. c. 36, Sch.

(15.) Every such certificate shall be prepared by and at the cost of the local authority; and where any agreement has been entered into as to the compensation payable in respect of the interest of any person in any lands, the local authority may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

(16.) The local authority shall, thirty days after demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases herein-after mentioned, the amount of moneys specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns.

(17.) If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the local authority in the High Court, for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the local authority, authorised to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all moneys payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and in equity be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid.

(18.) When and so soon as the local authority have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases herein-after mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the local authority, upon obtaining such receipt as herein-after mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

(19.) In every case in which any moneys are paid by any local authority under this Act for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such moneys are paid, provided such receipt has an ad valorem stamp of the same amount impressed thereon in respect of the purchase moneys mentioned in such certificate as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the cost of the local authority.

(20.) If it appear to the local authority, from any such statement and abstract as aforesaid, or otherwise, that the person making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the local authority, then and in every such case the amount to be paid by the local authority in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of the Lands Clauses Consolidation Act, 1845, as amended by the Court of Chancery Funds Act, 1872, "with respect to the purchase money or "compensation coming to parties having limited "interests, or prevented from treating, or not making "title."

(21.) Where any person claiming any right or interest in any lands refuses to produce his title to the same, or where the local authority have under the provisions of Part I. of this Act taken possession of any lands in respect of the compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the local authority taking possession, or if any party to whom any such certificate has been given or

tendered refuses to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the local authority in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of England, in manner provided by the last-mentioned clauses of the Lands Clauses Consolidation Act, 1845, as amended by the Court of Chancery Funds Act, 1872, and the amount so paid into the said Bank shall be accordingly dealt with as by the said Act provided.

(22.) Nothing herein contained shall prevent the local authority from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement herein-before mentioned, if they think fit, so as the same be obtained at the cost of the local authority.

(23.) If from any reason whatever the local authority does not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the local authority as aforesaid, then the right to have a certificate according to the provisions of this Act may, at the cost and charge of the local authority, be enforced by any party or parties, by application to the High Court, in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this Act may be in like manner enforced against the local authority by such application as aforesaid.

ENTRY ON LANDS ON MAKING DEPOSIT.

(24.) Where the local authority are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions herein-before contained, it shall be lawful for the local authority, at any time after

the arbitrator has framed his award, upon depositing in the Bank of England such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorised to be purchased or taken by the local authority, and mentioned in such award, to enter upon and use such lands for the purposes of the improvement scheme of the local authority: and the arbitrator shall, upon the request of the local authority at any time after he has framed such award, certify under his hand the sum which, in his opinion, should be so deposited by the local authority in respect of any lands mentioned in such award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such award as the sum or sums to be paid by the local authority in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under Part I. of this Act, shall be had, and payments made, as if such entry and deposit had not been made;

Provided that the local authority shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of Part I. of this Act, such compensation is required to be paid into the Bank of England, then until the same, with such interest, is paid into such Bank accordingly; and where under this provision interest is payable on any compensation money the certificate to be delivered by the local authority in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

(25.) The money so deposited as last aforesaid shall be paid into the Bank of England to such account as may from time to time be directed by any regulation or Act for the time being in force in relation to moneys deposited in the bank in similar cases, or to such account as may be directed by any order of the High Court, and remain in the bank by way of security to the parties interested in the lands which have been so entered upon for the payment of the money to become payable by the local authority in respect thereof under the award of the arbitrator; and the money so deposited may, on the application by petition of the local authority, be ordered to be invested in Bank Annuities or Government securities, and accumulated: and upon such payment as aforesaid by the local authority it shall be lawful for the High Court, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the local authority, or, in default of such payment as aforesaid by the local authority, it shall be lawful for the said court to order the same to be applied in such manner as it thinks fit for the benefit of the parties for whose security the same shall so have been deposited.

APPEAL.

(26.) In the following cases, namely,—

- (a.) Where the party named in any certificate issued under the provisions herein-before contained of the amount of the compensation ascertained by any award under Part I. of this Act (or any party claiming under the party so named) is dissatisfied with the amount in such certificate certified to be payable, and such amount exceeds one thousand pounds, and
- (b.) Where any party claiming any interest in any moneys so paid into court as aforesaid is dissatisfied with the amount of the

price or compensation in respect of which such moneys are paid into court, and such amount exceeds one thousand pounds ; also

- (c.) Where the local authority is dissatisfied with the amount of compensation which the arbitrator appointed under the provisions of Part I. of this Act has awarded to be paid by the local authority to any person in respect of any estate or interest in lands, and such amount exceed the sum of one thousand pounds :

the party dissatisfied may, upon obtaining the leave of the High Court, which leave may be granted by such court or any judge thereof at chambers in a summary manner, and upon being satisfied that a failure of justice will take place if the leave is not granted, submit the question of the proper amount of compensation to a jury, provided that such party give notice in writing to the other party of their intention to appeal within ten days after the cause of appeal has arisen.

The cause of appeal shall be deemed to have arisen,—

- (1.) Where a certificate has been issued as aforesaid, at the date of the issue of the certificate ;
- (2.) Where moneys have been paid into court, at the date of the payment into court ;
- (3.) Where the local authority appeals, at the date of the making of the award.

(27.) Where a notice has been given under Part I. of this Act of an appeal to a jury in respect of compensation for land, or any interest in land, a question of disputed compensation required to be determined by the verdict of a jury shall be deemed to have arisen within the meaning of the Land Clauses Consolidation Act, 1845, and all the provisions of that

Act contained in sections thirty-eight to fifty-seven, both inclusive, shall be deemed to apply, except sections forty-seven and fifty-one : Provided also, that—

- (1.) Where the local authority appeals that authority shall be deemed to be the plaintiff and the party entitled to compensation to be the defendant ; and
- (2.) Where the party claiming compensation appeals, then, in case the verdict of the jury is for a sum exceeding the award of the arbitrator, the local authority shall pay to such party the costs of the trial, such costs to be taxed and ascertained in the same manner as costs are by law ascertained on the trial of issues tried in the High Court ; but in case the verdict of the jury is for a sum not exceeding the award of the arbitrator, the party appealing shall pay to the local authority the costs of the trial to be taxed and ascertained in manner aforesaid.
- (3.) Where the local authority is the appellant,—
 - (a.) Notwithstanding the verdict of the jury may be for a sum less than that awarded by the arbitrator, the local authority shall pay to the other party such sum not exceeding twenty pounds for the costs of the trial as the sheriff or other officer before whom the same is tried shall direct ; and
 - (b.) In case the verdict of the jury is for a sum equal to or exceeding the award of the arbitrator, the local authority shall pay to the other party the costs of the trial, such costs to be taxed and ascertained in manner aforesaid.

- (c.) The amount of compensation awarded by the arbitrator shall not be communicated to the jury, but they shall be required to make an independent assessment of the amount of compensation to which the party claiming compensation is entitled.

COSTS OF ARBITRATION.

(28.) The salary or remuneration, travelling, and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the confirming authority in carrying the provisions of Part I. of this Act into execution, shall, after the amount thereof shall have been certified under this article, be paid by the local authority; and the amount of such costs, charges, and expenses shall from time to time be certified by the confirming authority after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the local authority; and every certificate of the said confirming authority certifying the amount of such costs, charges, and expenses shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the local authority to the Crown, and shall be recoverable accordingly.

See 45 & 46
Vict. c. 54.
Sch. (H).

Further, any such certificate may be made a rule of a superior court on the application of any party named therein, and may be enforced accordingly.

(29.)—(1.) It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority;

Provided that—

See 45 & 46
Vict. c. 54
Sch. (1).

- (a.) The arbitrator shall not be required to certify the amount of costs in any case where he considers such costs are not properly payable by the local authority ;
- (b.) The arbitrator shall not be required to certify the amount of costs incurred by any party in relation to the arbitration, in any case where he considers that such party neglected, after due notice from the local authority, to deliver to that authority a statement in writing within such time, and containing such particulars respecting the compensation claimed, as would have enabled the local authority to make a proper offer of compensation to such party before the appointment of the arbitrator.
- (c.) No certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of the claim before the appointment of the arbitrator.

(2.) If within seven days after demand the amount certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per cent. per annum for any time during which the same remains unpaid after such seven days as aforesaid.

MISCELLANEOUS.

(30.) The arbitrator may call for the production of any documents in the possession or power of the local authority, or of any party making any claim

under the provisions of Part I. of this Act, which such arbitrator may think necessary for determining any question or matter to be determined by him under Part I. of this Act, and may examine any such party and his witnesses and the witnesses for the local authority, on oath, and administer the oaths necessary for that purpose.

(31.) If any arbitrator appointed in pursuance of Part I. of this Act die, or refuse, decline, or become incapable to act, the confirming authority may appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the local authority shall publish notice of such appointment in the London Gazette.

(32.) All notices required by this schedule to be published shall be published in some one and the same newspaper circulating within the jurisdiction of the local authority, and where no other form of service is prescribed all notices required to be served or given by the local authority under this schedule or otherwise upon any persons interested in or entitled to sell lands, shall be served in manner in which notices of lands proposed to be taken compulsorily for the purpose of an improvement scheme are directed by Part I. of this Act to be served upon owners or reputed owners, lessees or reputed lessees, and occupiers.

APPLICATION OF SCHEDULE TO SCOTLAND.

The provisions of this schedule shall apply to Scotland, with the following modifications:—

Application
of schedule
to Scotland.

(33.)—(a.) In any reference in this schedule to “an abstract title” there shall be substituted “a legal progress of the title deeds”:

(b.) In articles sixteen and eighteen of this schedule the words heirs, executors, or assignees shall be substituted for the words "executors, administrators, or assigns":

(c.) In articles twenty and twenty-one the words "as amended by the Court of Chancery Funds Act, 1872," shall be omitted:

(d.) Any reference to payment of money into the Bank of England shall be construed to be payment into any one of the incorporated or chartered banks of Scotland:

(e.) Any reference to the High Court shall be construed as a reference to the Court of Session:

(f.) Any money ordered to be invested under article twenty-five of this schedule shall be invested only in Government securities:

(g.) Any reference to payment of money into Court shall be construed as payment into bank:

(h.) A reference to plaintiff and defendant shall be construed as a reference to pursuer and defender:

(i.) The Edinburgh Gazette shall be substituted for the London Gazette.

(34.) In lieu of articles 11, 17 and 19 of this schedule the following provisions shall be substituted:—

(i.) The arbitrator shall have the same power of apportioning any feu duty, ground annual, casualty or superiority, or any rent or other annual or recurring payment or incumbrance, or any rent payable in respect of lands comprised in a lease, as the sheriff has under the Lands Clauses Consolidation (Scotland) Act, 1845.

(ii.) If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be

entitled to record the same in the books of council and session, or other judge's books competent, and to have a decree interponed thereto, and to be extracted with a view to execution, in the like manner as if a formal clause of registration had been contained therein; and all diligence and execution shall be competent thereon in the like manner and to all effects as upon any bond containing such formal clause of registration; and all moneys payable under such certificates, or to be recovered by such execution and diligence as aforesaid, shall be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid.

- (iii.) In every case in which any moneys are paid by any local authority under this Act for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a conveyance of the lands in respect of which such moneys are paid, or of all the estate and interest of such party, and of all parties claiming under or through him, in such lands, and every such conveyance shall be prepared by and at the costs of the local authority.

APPENDIX C.

The Housing of the Working Classes Act, 1903.

SCHEDULE AS AMENDED BY THE ACT OF 1909.

(1) If in the administrative county of London or in any borough or urban district, or in any parish not within a borough or urban district, the undertakers have power to take under the enabling Act working-men's dwellings occupied by thirty or more persons belonging to the working class, the undertakers shall not enter on any such dwellings in that county, borough, urban district, or parish, until the Local Government Board have either approved of a housing scheme under this schedule or have decided that such a scheme is not necessary.

For the purposes of this schedule a house shall be considered a working-man's dwelling if wholly or partially occupied by a person belonging to the working classes, and for the purpose of determining whether a house is a working-man's dwelling or not, and also for determining the number of persons belonging to the working classes by whom any dwelling-houses are occupied, any occupation on or after the fifteenth day of December next before the passing of the enabling Act, or, in the case of land acquired compulsorily under a general Act without the authority of an order, next before the date of the application to the Local Government Board under this schedule, for their approval of or decision with respect to a housing scheme, shall be taken into consideration.

In applying this section to Scotland the expression "district within meaning of the Public Health (Scotland) Act, 1897," shall be substituted for the expressions "borough," "urban district" and "parish" respectively. Throughout this schedule the "Local Government Board for Scotland" shall be substituted for "Local Government Board." (1909, s. 53 and Schedule 3.)

(2) The housing scheme shall make provision for the accommodation of such number of persons of the working class as is, in the opinion of the Local Government Board, taking into account all the circumstances, required, but that number shall not exceed the aggregate number of persons of the working class displaced; and in calculating that number the Local Government Board shall take into consideration not only the persons of the working class who are occupying the working-men's dwellings which the undertakers have power to take, but also any persons of the working class who, in the opinion of the Local Government Board, have been displaced within the previous five years in view of the acquisition of land by the undertakers.

(3) Provision may be made by the housing scheme for giving undertakers who are a local authority, or who have not sufficient powers for the purpose, power for the purpose of the scheme to appropriate land or to acquire land, either by agreement or compulsorily under the authority of a Provisional Order, and for giving any local authority power to erect dwellings on land so appropriated or acquired by them, and to sell or dispose of any such dwellings, and to raise money for the purpose of the scheme as for the purposes of Part III. of the principal Act, and for regulating the application of any money arising from the sale or disposal of the dwellings; and any provisions so made shall have effect as if they had been enacted in an Act of Parliament.

(4) The housing scheme shall provide that any lands acquired under that scheme shall, for a period of twenty-five years from the date of the scheme, be appropriated for the purpose of dwellings for persons of the working class, except so far as the Local Government Board dispense with that appropriation; and every conveyance, demise, or lease of any such land shall be endorsed with notice of this provision, and the Local Government Board may require the insertion in the scheme of any provisions requiring a certain standard of dwelling-house to be erected

under the scheme, or any conditions to be complied with as to the mode in which the dwelling-houses are to be erected.

In applying this subsection to Scotland substitute for "every conveyance . . . notice of this provision" the words "every such appropriation of lands shall be recorded as a real burden affecting such lands in the appropriate register of sasines." (1909, s. 53 and Schedule 3.)

(5) If the Local Government Board do not hold a local inquiry with reference to a housing scheme, they shall, before approving the scheme, send a copy of the draft scheme to every local authority, and shall consider any representation made within the time fixed by the Board by any such authority.

(6) The Local Government Board may, as a condition of their approval of a housing scheme, require that the new dwellings under the scheme, or some part of them, shall be completed and fit for occupation before possession is taken of any working-men's dwellings under the enabling Act.

(7) Before approving any scheme the Local Government Board may if they think fit require the undertakers to give such security as the Board consider proper for carrying the scheme into effect.

(8) The Local Government Board may hold such inquiries as they think fit for the purpose of their duties under this schedule, and subsections one and five of section eighty-seven of the Local Government Act, 1888 (which relate to local inquiries), shall apply for the purpose, and where the undertakers are not a local authority shall be applicable as if they were such an authority.

In applying this subsection to Scotland substitute for "subsection one . . . Local Government Act, 1888" the words "subsections one and three (with the substitution of the Local Government Board for Scotland for the Secretary of Scotland) of Section ninety-three of the Local Government (Scotland) Act, 1889." (1909, s. 53 and Schedule 3.)

(9) If the undertakers enter on any working-men's dwelling in contravention of the provisions of this schedule, or of any conditions of approval of the housing scheme made by the Local Government Board, they shall be liable to a penalty not exceeding five hundred pounds in respect of every such dwelling :

Any such penalty shall be recoverable by the Local Government Board by action in the High Court, and shall be carried to and form part of the Consolidated Fund.

(10) If the undertakers fail to carry out any provision of the housing scheme, the Local Government Board may make such order as they think necessary or proper for the purpose of compelling them to carry out that provision, and any such order may be enforced by mandamus.

In applying this subsection to Scotland substitute for "mandamus" the words "order of the court of session on the application of the Board."

(11) The Local Government Board may, on the application of the undertakers, modify any housing scheme which has been approved by them under this Schedule, and any modifications so made shall take effect as part of the scheme.

(12) For the purposes of this schedule—

(a) The expression "undertakers" means any authority, company, or person who are acquiring land compulsorily or by agreement under any local Act or Provisional Order or order having the effect of an Act, or are acquiring land compulsorily under any general Act :

(b) The expression "enabling Act" means any Act of Parliament or Order under which the land is acquired :

- (c) The expression "local authority" means the council of any administrative county and the district council of any county district, or, in London, the council of any metropolitan borough, in which in any case any houses in respect of which the rehousing scheme is made are situated, or in the case of the city the common council :

In applying this subsection to Scotland substitute for "council of any . . . borough in which" the words "local authority for the purposes of the Public Health (Scotland) Act, 1897, in whose district." (1909, s. 53 and Schedule 3.)

- (d) The expression "dwelling" or "house" means any house or part of a house occupied as a separate dwelling :
- (e) The expression "working class" includes mechanics, artisans, labourers, and others working for wages ; hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others, except members of their own family, and persons other than domestic servants whose income in any case does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them

APPENDIX D.

Rules,

DATED JANUARY II, 1910, MADE BY THE LOCAL GOVERNMENT BOARD, UNDER SECTION 39 OF THE HOUSING, TOWN PLANNING, &C. ACT, 1909 (9 EWD. 7, C. 44) WITH REFERENCE TO APPEALS.

We, the Local Government Board, for the purpose of determining the procedure on any appeal under Part I. of the Housing, Town Planning, &c. Act, 1909, do hereby make the following Rules, that is to say—

Rule 1.—Every appeal to the Local Government Board shall be made to and be brought before the Local Government Board by means of a letter, or other representation in writing (herein-after referred to as a “statement of appeal”) which shall be addressed and posted, or shall be otherwise given, sent, or delivered to the Local Government Board at their office, and of which a copy shall, at the same time, be addressed and posted, or shall be otherwise given, sent, or delivered to the Local Authority at their office.

Rule 2.—Every statement of appeal shall be signed by or on behalf of every person (herein-after referred to as an “appellant”) who makes or who joins in making the appeal, or, where an appellant is a corporation, or an association or body of persons unincorporate, shall be signed by an officer of or other person described as duly authorised by the corporation, association, or body, and shall bear a date corresponding to that of the day on which the requisite signature is affixed to the statement of appeal.

Rule 3.—Every statement of appeal shall set forth in detail the grounds of the appeal, all material facts in relation to the description or position of every

appellant as a party to the appeal, and to his interest in any dwelling-house or premises to which the appeal has reference, or to his interest in or to such other concern or association as he may have with any subject-matter of the appeal, and also all material facts in relation to any such proceeding by a Local Authority or by an officer of or person authorised by a Local Authority as affects the grounds of appeal, the appellant, the interest of the appellant in any dwelling-house or premises to which the appeal has reference, or the interest of the appellant in or such other concern or association as he may have with the subject-matter of the appeal.

Rule 4.—Every statement of appeal shall be accompanied by every such document as an appellant has in his possession or at his disposal, and is able to furnish, and as consists of, or comprises, or gives particulars of, any notice, order, demand, or apportionment relating to the grounds or subject-matter of the appeal, or otherwise relating to any material facts set forth in the appeal; and shall show by appropriate particulars in the statement of appeal, or by an appropriate entry on any such document accompanying the statement of appeal, the date of service upon an appellant of the notice, order, demand, or apportionment.

Rule 5.—Where an appeal appears to the Local Government Board to require, for its due consideration, that information, other than such information as is set forth in the statement of appeal, or is supplied by means of any document accompanying the statement of appeal, or by means of any statement by or correspondence with an appellant or the Local Authority respecting the appeal, shall be furnished to the Local Government Board, the requisite information shall, on the written request of the Local Government Board, be furnished by an appellant or by the Local Authority, as the case may be, in such manner, in such form, and within such time as the Local Government Board in writing specify.

Rule 6.—Where the Local Government Board on an appeal are satisfied that there is reasonable cause for dispensing, either conditionally or unconditionally, with compliance with any requirement of the foregoing Rules, or for varying any such requirement, the Local Government Board may by a notification in writing to an appellant or to the Local Authority, as the case may be, give the necessary dispensation to the appellant or to the Local Authority, as the case may be, or may make and give effect to the necessary variation and to any incidents or consequences of that variation; and, in the case of any such dispensation when given subject to any condition, or in the case of any such variation, an appellant or the Local Authority, as the case may be, shall comply in all respects with the condition or variation, and with any requirement of the notification by the Local Government Board, as if the condition, variation, or requirement formed part of the foregoing Rules.

Rule 7.—Where the Local Government Board, before considering an appeal, require an appellant to deposit a sum to cover the costs of the appeal, the sum shall be—

- (a) In every case in which the Office of the Local Authority is at a distance not exceeding fifty miles from the Office of the Local Government Board—

Seven Pounds ; and

- (b) In every other case—

Ten Pounds.

For the purposes of this Rule, the distance shall be measured by a straight line drawn on the third edition of the map of the Ordnance Survey on the scale of $\frac{1}{63360}$, or one mile to one inch, from the nearest point in one Office to the nearest point in the other Office.

Rule 8.—Except so far as this Rule otherwise provides and so far as regards any costs incurred by the Local Government Board in relation to a public local inquiry held in pursuance of these Rules, all costs of and incidental to an appeal shall, when incurred by an appellant or by the Local Authority, be borne by the appellant or by the Local Authority as the case may be : Provided that the Local Government Board may, by any Order made under sub-section (1) of Section 39 of the Housing, Town Planning, &c. Act, 1909, direct by whom any such costs, when incurred by an appellant or by the Local Authority, shall be borne ; and that nothing in this Rule shall have effect in contravention or in derogation of any such direction.

Rule 9.—The Local Government Board shall not dismiss an appeal without having first held a public local inquiry.

Where the Local Government Board are required to hold a public local inquiry, and written notice of the time and place at which the inquiry will be held has been given by the Local Government Board to every appellant and to the Local Authority, a printed copy of the notice shall be posted by the Local Authority at every place specified in writing by the Local Government Board as necessary or suitable for the purpose.

Given under the Seal of Office of the Local Government Board, this eleventh day of January, in the year One thousand nine hundred and ten.

(L.S.)

John Burns,
President.

S. B. Provis,
Secretary.

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